Council of the District of Columbia
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY
COMMITTEE REPORT
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004

To: Members of the Council of the District of Columbia

From: Councilmember Charles Allen CA
Chairperson, Committee on the Judiciary & Public Safety

Date: October 18, 2018

Subject: Report on Bill 22-0107, the "Campaign Finance Reform Amendment Act of 2018"

The Committee on the Judiciary and Public Safety, to which Bill 22-0107, the "Campaign Finance Reform Amendment Act of 2018", was referred, reports favorably thereon, and recommends approval by the Council of the District of Columbia.

CONTENTS

STATEMENT OF PURPOSE AND EFFECT

I. Purpose and Effect

Bill 22-0107, the "Campaign Finance Reform Amendment Act of 2018", is the Committee's omnibus campaign finance reform legislation, and it includes aspects of several campaign finance-related bills pending before the Council: B22-0008, the "Campaign Finance Transparency and Accountability Amendment of 2017";[1] B22-0032, the "Clean Elections Amendment Act of 2017";[2] B22-0047, the "Government Contractor Pay-to-Play Prevention Amendment Act of 2017";[3] B22-0051, the "Comprehensive Campaign Finance Reform Amendment Act of 2017";[4] and B22-0107, the "Campaign Finance Reform Amendment Act of 2017".[5]

The Committee Print is the second phase of the Committee's campaign finance reform efforts. The first phase was the passage of the B22-0192, the "Fair Elections Amendment Act of 2018", which established a program to provide public funding to qualified candidates who forgo campaign contributions from corporations and traditional political action committees ("PACs").[6] On June 29, 2017, the Committee held a public hearing on B22-0192, at which approximately seventy witnesses testified overwhelmingly in support of public financing and in support of campaign finance reform generally. Shortly thereafter, on July 10, 2017, the Committee held a hearing on four other campaign finance reform-related measures: B22-0008, B22-0032, B22-0051, and B22-0107. These four bills sought to address issues such as "pay-to-play" government contracting,[7] improper coordination of independent expenditures, enhanced disclosure requirements, and the retirement of campaign debt. Taken together, the two hearings reflect the Committee's examination of strategies to enhance the District's campaign finance laws and address the relationship between money and power in District elections. The Council unanimously passed the Fair Elections Amendment Act of 2018 in early 2018, and the Council approved funding for the law in the Fiscal Year 2019 budget.[8] In B22-0107, the Committee undertakes a comprehensive second-phase examination of campaign finance law in the District and proposes reforms to limit influence, prevent corruption, and increase transparency and disclosure.

---

[1] *See*, http://lims.dccouncil.us/Download/37159/B22-0008-Introduction.pdf/
[2] *See*, http://lims.dccouncil.us/Download/37188/B22-0032-Introduction.pdf.
[3] *See*, http://lims.dccouncil.us/Download/37204/B22-0047-Introduction.pdf.
[4] *See*, http://lims.dccouncil.us/Download/37210/B22-0051-Introduction.pdf.
[5] *See*, http://lims.dccouncil.us/Download/37360/B22-0107-Introduction.pdf.
[6] Fair Elections Amendment Act of 2018, effective May 5, 2018 (D.C. Law 22-94; D.C. Official Code § 1-1161.01 *et seq.*), available at http://lims.dccouncil.us/Download/37693/B22-0192-Enrollment.pdf
[7] "Pay-to-play" government contracting is the practice of an individual or business entity making campaign contributions to a public official with the hope of winning a government contract. "Pay-to-play" practices can be viewed as a subtler form of political corruption, because they may involve anticipatory action and potential future benefits, as opposed to any explicit *quid pro quo* agreement.
[8] The law's effective date is November 7, 2018.

II. Background

a. *Overview of Proposals Before the Committee*

Four campaign finance reform-related bills have been referred to the Committee on the Judiciary and Public Safety thus far in Council Period 22, and a fifth is pending in the Committee of the Whole. First, on January 5, 2017, B22-0008, the "Campaign Finance Transparency and Accountability Amendment of 2017", was introduced by Chairman Mendelson at the request of Attorney General Karl Racine. The bill focuses on reducing the appearance and actuality of pay-to-play government contracting by limiting who can do business with the District and contribute to political campaigns. It restricts a person who has made contributions to certain recipients, including officials and candidates who are involved in the awarding of contracts, from engaging in business with the District for two years from the date the contribution or solicitation was made. The bill defines "engaging in business dealings with the District" as receiving a grant from the District that is valued at $100,000 or more; receiving a tax abatement from the District that is valued at $100,000 or more; entering into an agreement with the District for the acquisition, sale, or lease of any land or building; or entering into a contract with the District valued at $100,000 or more.

In addition, the Attorney General's bill would amend the District's campaign coordination laws by clarifying that any expenditure coordinated with a candidate's campaign should be treated like a contribution. It also establishes a rebuttable presumption that a campaign expenditure was coordinated in the following scenarios: (1) if the campaign provides information about its needs or plans to the person making the expenditure; (2) if the campaign and the person making the expenditure share a common vendor providing campaign or fundraising strategy; or (3) if the group making the expenditure is run by a candidate's immediate family member or former high-level staff.

On January 10, 2017, B22-0051, the "Comprehensive Campaign Finance Reform Amendment Act of 2017", was introduced by Councilmembers Vincent Gray and Trayon White and referred to this Committee. This bill similarly aims to reduce "pay-to-play" contracting. It prevents the District from entering into contracts with contractors seeking or holding contracts or grants with the District with a cumulative value of $250,000 or more who have made a contribution or expenditure to certain recipients, including officials and candidates who could influence the award of a contract, within specified dates. If the covered contractor's bid is successful, the covered contractor may not make contributions or expenditures between the date the covered contractor knows that a solicitation will be issued and one year after final payment is made on the contract or grant. If the covered contractor's bid is unsuccessful, then the covered contractor may not make contributions or expenditures between the date the covered contractor knows that a solicitation will be issued and the date of the termination of the negotiations or notification that the bid was unsuccessful.

In Councilmember Gray's bill, the prohibition on contributions and expenditures also applies to "related parties", which includes trusts, limited liability corporations ("LLCs"), general partners of such LLCs, and political committees. It also applies, if the covered contractor is a corporation, to any officer or director of the corporation or to any principal who has a controlling

interest. Under the bill, immediate family members of a covered contractor, and the covered contractor's officers, directors, and principals, would be allowed to make campaign contributions and expenditures, but they may not exceed an aggregate of $300 per person per election. The existing definition of "immediate family members" in D.C. Official Code § 1-1161.01(26) is broad, encompassing "the spouse or domestic partner of a public official or employee and any parent, grandparent, brother, sister, or child of the public official or employee, and the spouse or domestic partner of any such parent, grandparent, brother, sister, or child." The bill also strengthens disclosure requirements by providing that all election-related advertisements must include a disclaimer naming the ad's sponsor.

On January 10, 2017, two other campaign finance-related bills were introduced. B22-0032, the "Clean Elections Amendment Act of 2017", was introduced by Councilmember Elissa Silverman, Committee Chairperson Allen, and Councilmembers Mary Cheh, David Grosso, and Brianne Nadeau. The bill, referred to this Committee, addresses improper coordination between campaigns and independent expenditure committees by identifying under which circumstances independent expenditures are truly independent. The bill also provides that only individuals may contribute to political committees and constituent-service programs.

B22-0047, the "Government Contractor Pay-to-Play Prevention Amendment of 2017", was introduced by Chairman Phil Mendelson, along with Committee Chairperson Charles Allen and Councilmembers Mary Cheh, Brianne Nadeau, Elissa Silverman, and Robert White. The bill was referred to the Committee of the Whole, and it prohibits government contracts valued at $100,000 or more with businesses and individuals that have made contributions to elected officials during a certain period.

Lastly, on February 7, 2017, B22-0107, the "Campaign Finance Reform Amendment Act of 2017", was introduced by Committee Chairperson Charles Allen and Councilmembers Anita Bonds and David Grosso. The introduced version of the bill, now the Committee Print, required principal campaign committees to retire all their debts within six months after an election, so that campaign accounts would no longer be allowed to remain open for an unlimited period of time. The bill also required committees and candidates to obtain consent before using a person's likeness in campaign literature, advertisements, websites, or social media.

b. *Overview of the Committee Print*

The Committee Print centers around six themes: (1) reforming agency oversight of the District's campaign finance laws; (2) tackling the perception and actuality of government contractor pay-to-play; (3) limiting the influence of money as a corrupting force in District politics; (4) addressing improper coordination between public officials, political committees, PACs, and independent expenditure committees ("IECs"); (5) enhancing disclosure requirements and training; and (6) keeping pace with evolving case law. The Committee proposes these far-reaching reforms in an attempt to reverse the perception and reality of corruption in District politics and strengthen public trust in both the election process and in public officials.

1. Reforming Agency Oversight of the District's Campaign Finance Laws

Currently, the Office of Campaign Finance ("OCF") is overseen by a three-member Board of Elections ("BOE"). The Board also oversees the agency known as the Board of Elections – governed by an Executive Director – which administers the District's elections.[9] The Board is currently – and has historically been – primarily focused on elections issues, rather than on campaign finance issues, as most recently evidenced by Board Chairperson Michael Bennett's testimony at his re-confirmation hearing before the Committee.[10] Committee observations of Board actions and discussions over the past several years have underscored this de-prioritization. In addition, none of the current Board members have a background in campaign finance law, policy, or technology – a troubling deficiency, given the impending effective date of the Fair Elections Program. Moreover, the Committee has repeatedly heard public testimony that OCF is yet to reach its full potential. For example, at the Committee's March 8, 2018, Performance Oversight Hearing on the agency, Aquene Freechild, Co-Director of Public Citizen's Democracy is For People Campaign, testified that OCF needs to become an "energetic regulator that is committed to transparency, clear communication, and fairness".[11] She noted that to reach this goal and to regain the public's trust in the agency, there needs to be a "significant cultural shift and increase in activity at OCF".[12]

The Committee believes that OCF has been deprived of the vision and experience of a Board with subject-matter expertise. Although elections and campaign finance issues are intimately related, the Committee believes that OCF would be better served with its own Board, composed of members specifically experienced in campaign finance matters. With its own Board, OCF and its leadership would benefit from more direct oversight and support. The Committee Print, therefore, removes OCF from under BOE's jurisdiction and creates a new, standalone, independent Campaign Finance Board ("CFB"). The CFB's purpose will be to administer, enforce, and implement the District's campaign finance laws and regulations, refer alleged violations for prosecution, seek out best practices, and issue rules.

The CFB's structure mimics that of BOE and the Board of Ethics and Government Accountability ("BEGA"). It will consist of five members appointed by the Mayor with the advice and consent of the Council. When appointing and confirming members of the Board, the Mayor

---

[9] The Board of Elections was created by the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.01 *et seq.*), and it assumed responsibility for the District's campaign finance laws and regulations almost two decades later through the District of Columbia Campaign Finance Reform Act, approved August 14, 1974 (88 Stat. 455; Pub. L. 93-376).

[10] Upon questioning from Chairperson Allen, Mr. Bennett explained the Board's oversight role with respect to BOE and OCF. He noted that OCF's work is "process and data driven", and the Board mostly just "keeps up with what's going on" at the agency. In contrast, he stated, the Board is more involved in the day-to-day issues on the elections "side of the house". He testified that, as Chair, he spends more time on elections administration than on campaign finance issues. *See*, Council of the District of Columbia Committee on the Judiciary and Public Safety, *Public Hearing on PR22-0838, the "District of Columbia Board of Elections Michael Bennett Confirmation resolution of 2018"* (oral testimony of Michael Bennett, Chairperson, Board of Elections), available at http://dc.granicus.com/MediaPlayer.php?view_id=44&clip_id=4578.

[11] Committee on the Judiciary and Public Safety Performance Oversight Hearing on the Office of Campaign Finance (March 8, 2018) (oral testimony of Aquene Freechild, Co-Director, Democracy is For People Campaign, Public Citizen), available at http://video.oct.dc.gov/VOD/DCC/2018_03/03_08_18_Judiciary.html.

[12] *Id.*

and Council, respectively, will be required to consider whether the individuals possess knowledge, training, or experience in campaign finance law or administration. Members must be duly-registered voters, have resided in the District continuously since the beginning of the three-year period ending on the day the person is appointed, and not hold any other office or employment in the District government. While serving on the Board, a member may not: (1) campaign for any other public office; (2) act as a leader or hold any office in a political party or political committee, PAC, or IEC; (3) participate in any political campaign in any District election; (4) be a lobbyist; (5) be an officer, director, or employee of an organization receiving District funds who has managerial or discretionary responsibilities with respect to those funds; or (6) use their status as a member to directly or indirectly attempt to influence any decision of the District government relating to any action that is not within the CFB's purview. Board members will receive compensation identical to that of the BOE members and may be removed for good cause.

Under the Committee Print, all investigations of alleged violations will be made by the Director of Campaign Finance in the Director's discretion. The Director must present evidence concerning alleged violations to the Board within a reasonable time if he or she believes that sufficient evidence exists to constitute a violation. Following the presentation of evidence, the Board may refer the matter for prosecution or dismiss the action. If the Director fails to present a matter or advises the Board that insufficient evidence exists to present a matter or more time is needed to investigate the matter further, the Board may order the Director to present the matter within ninety days of its receipt. This procedure mirrors current law.

Existing law requires the Director of Campaign Finance to publish a biennial report by January 31 of each odd-numbered year with a description of the receipts and expenditures of candidates for Mayor, Attorney General, Chairman and members of the Council, members of the State Board of Education, shadow Senator, and shadow Representative, but excluding candidates for Advisory Neighborhood Commissioner. The Committee Print aligns the deadline for the report with BEGA's December 31 annual best practices report, and also includes information about IECs. As amended, the report must provide, at a minimum, the following information, as well as other information that the Director considers appropriate:

(1) A summary of each candidate's receipts, in dollar amount and percentage terms, by categories of contributors that the Director considers appropriate, such as the candidate himself or herself, individuals, political committees, corporations, partnerships, and labor organizations;
(2) A summary of each candidate's receipts, in dollar amount and percentage terms, by the size of the donation, including donations of $500 or more; donations of $250 or more but less than $500; donations of $100 or more but less than $250; and donations of less than $100;
(3) The total amount of a candidate's receipts and expenditures for primary and general elections, respectively, when applicable;
(4) A summary of each candidate's expenditures, in dollar amount and percentage terms, by operating expenditures, transfers to other authorized committees, loan repayments, and refunds of contributions; and
(5) A summary of the receipts and expenditures of political committees, PACs, and IECs using categories considered appropriate by the Director.

All reports published by the CFB must be now published online.

The Committee Print again mirrors BOE's jurisdiction by authorizing the CFB to issue advisory opinions on compliance with the District's campaign finance laws – either on its own initiative or in response to a request from a public official, political committee, PAC, IEC, an official of a political party, any person required to or who reasonably anticipates being required to submit filings to the CFB, or any other person under the CFB's jurisdiction. The CFB must publish a statement of each request, without identifying the person seeking the opinion, in the *District of Columbia Register* within twenty days after its receipt. Comments upon the requested opinion must be received for a period of at least fifteen days following publication.

The Committee is confident that this restructuring will allow the new CFB to thrive. By creating a dedicated board for campaign finance matters, the Committee Print provides the agency with the full spectrum of tools and resources it needs to rigorously and robustly enforce and implement the District's campaign finance laws. Though the issues surrounding elections and campaign finance are undeniably connected, the Committee believes that the District will benefit greatly from a CFB able to provide specific campaign finance-related support, expertise, and vision. Such a bifurcated structure appears in other jurisdictions: for example, New York City has an independent Campaign Finance Board, tasked with administering the city's campaign finance system (which also includes a robust public financing program).[13]

2. Tackling the Perception and Actuality of Government Contractor Pay-to-Play

i. *The Perception or Actuality of "Pay-to-Play" Contracting in the District*

One of the major concerns that arose at the Committee's hearing on the pending campaign finance measures was that, in our current system, wealthy and corporate contributors have an outsized influence in local politics. Specifically, witnesses testified to both a perception and a reality in the District that wealthy developers and corporations unduly influence elected officials' decisions through campaign contributions and "pay-to-play" politics.

During the hearing, there was a spirited debate among Councilmembers in attendance and with the public witnesses about this issue. Adav Noti, from the Campaign Legal Center, testified that the Council plays a significant role in the oversight of the contracting process, which can create the appearance of, as well as the opportunity for, favoritism toward political supporters.[14] One Councilmember referenced a *Washington Post* poll citing the statistic that 64% of District residents believe that the District government catering to developers is a major cause of the lack

[13] New York City maintains a separate Board of Elections, which oversees the administration of elections. *See*, https://www.nyccfb.info/ and http://vote.nyc.ny.us/html/home/home.shtml.

[14] Council of the District of Columbia Committee on the Judiciary and Public Safety, *Public Hearing on B22-0107, the "Campaign Finance Reform Amendment Act of 2017"* (July 10, 2017) (oral testimony of Adav Noti, Senior Director of Trial Litigation & Strategy, Campaign Legal Center), available at http://lims.dccouncil.us/Download/37360/B22-0107-HearingRecord1.pdf.

of affordable housing in the city.[15] This Councilmember noted that money's impact reaches beyond campaigns to also affect how constituents perceive the decisions of officials once in office, and without stronger legislative efforts to address these concerns, constituents begin to assume officials make decisions based purely on who donated how much money to their campaigns, with this sentiment contributing to voter apathy.

In a letter submitted to the Committee, the Campaign Legal Center stated that the proposed provisions would "meaningfully inhibit the types of pay-to-play scandals that have cast a shadow over the District's government in recent years".[16] Aquene Freechild, from Public Citizen, testified that a recent report by her organization showed that 40% of contributions came from construction and real estate corporations.[17] She specifically pointed to Fort Myer Construction, testifying that the corporation gave $3,000 to various candidates.[18] However, she noted that if executives, family members, and family trusts related to the corporation were included, that number would increase to more than $20,000 in contributions.[19] The company's two top executives, their immediate family members, and their family trusts gave an additional $17,700 to Council campaigns.[20]

Another Councilmember disagreed that pay-to-play contracting is a problem in the District, expressing his belief that this legislation is seeking to solve a problem that does not exist. He noted that the Council does not issue contracts, but rather only reviews multiyear contracts and contracts with a value over $1 million. For this reason, the Councilmember took issue with the idea that restricting funding from contractors would prevent corruption or even counter the perception of corruption. This Councilmember further asserted that pay-to-play contracting simply "does not exist" in the District. He challenged the public witnesses and his colleagues to name a specific instance in the history of District politics in which an elected official had awarded a contract based on campaign contributions or "shaken down" a contractor for campaign contributions in return for a contract. He stated that the bills under consideration, and specifically, the pay-to-pay provisions, are perhaps required in other places like New York City, but these kinds of laws are not necessary in the District.

Chairperson Allen responded that, in the Council's recent history, there have been three Councilmembers who have had either lost their committee, had their committee's jurisdiction modified, or been reprimanded or censured for conduct directly related to campaign finance violations, unlawful gifts or arrangements, and conflicts relating to contracting. Attorney General Racine also testified in support of the bills, stating that the public has an "extraordinarily powerful perception" that elected officials have a unique ability to influence the direction of a contract,

---

[15] *Washington Post D.C. Poll June 15-18, 2017: Affordable housing and gentrification*, WASH. POST (July 6, 2017), available at https://www.washingtonpost.com/page/2010-2019/WashingtonPost/2017/07/01/National-Politics/Polling/release_479.xml?uuid=fNH3cF5wEeeqaTlkp9VSBw.

[16] *Supra*, note 14 (written testimony of the Campaign Legal Center), available at http://lims.dccouncil.us/Download/37360/B22-0107-HearingRecord1.pdf.

[17] *Id.*, (oral testimony of Aquene Freechild, Co-Director, Democracy is for People Campaign, Public Citizen), available at http://lims.dccouncil.us/Download/37360/B22-0107-HearingRecord1.pdf.

[18] *Id.*

[19] *Id.*

[20] *Id.*

whether true or not.[21] He stated that perception alone does, in fact, require action – action that is reasonable and constitutional, such as the legislation under consideration at the hearing.

The Committee agrees that the Council's significant oversight role in the contracting process – approving multi-year contracts and those worth more than $1 million – creates the perception of and the opportunity for favoritism toward political supporters. Campaign contributions from potential contractors to those public officials responsible for awarding contracts also has the potential to unduly influence the government contracting process.

In addition, the Council's role in granting tax abatements has come under scrutiny. In December 2017, the *Washington City Paper* reported on a tax abatement proposal for the development of a parking lot owned by the Supreme Council of Scottish Rite Freemasonry of the Southern District of the United States that had been introduced by a Councilmember.[22] The article asserted that the project was being pushed by political donors and lobbyists "familiar with the Wilson Building".[23] While no campaign finance violations were alleged or investigation conducted, the article raised a perception of corruption among some members of the public, concluding that "whatever the projects' merits, to some residents the prospective subsidies seem like new iterations of D.C.'s age-old pay-to-play culture that rewards special interests at taxpayers' expense".[24]

The Council is not the only government entity involved in government contracting – the Executive plays an even more involved role. One recent alleged pay-to-play incident involved the handling of two contracts awarded by the Department of General Services ("DGS") to Fort Myer Construction and personnel actions taken in response to those awards.[25] In September 2016, in response to public concern and several media stories, the Committee on Transportation and Environment opened an investigation into the circumstances surrounding how the contracts were evaluated and awarded, as well as the reasons for the personnel actions.[26] The Committee heard more than twenty hours of testimony and conducted numerous interviews, resulting in a report titled, "Findings and Recommendations of Mary M. Cheh on the Department of General Services Contracting and Personnel Management".[27]

---

[21] *Id.*, (July 10, 2017) (oral testimony of Karl Racine, Attorney General for the District of Columbia), available at http://lims.dccouncil.us/Download/37360/B22-0107-HearingRecord1.pdf.

[22] Andrew Giambrone, *D.C. Councilmembers, Campaign Donors, and Lobbyists Arrange Questionable Tax Breaks for Dupont Circle Development Projects*, WASH. CITY PAPER (December 21, 2017), available at https://www.washingtoncitypaper.com/news/housing-complex/article/20986715/dc-councilmembers-campaign-donors-and-lobbyists-arrange-questionable-tax-breaks-for-dupont-circle-development-projects.

[23] *Id.*

[24] *Id.*

[25] The contracts in question were both Requests for Proposals issued by DGS for District infrastructure projects. The first was for the development of the future site of the D.C. United Soccer Stadium at Buzzard Point, and the second was for the development of the future site of the entertainment and sports facility at St. Elizabeths East Campus.

[26] *See, e.g.*, Aaron Davis and Peter Jamison, *Fired D.C. employee claims Bowser administration tried to steer contracts to donor*, WASH. POST (Dec. 1, 2016), available at https://www.washingtonpost.com/local/dc-politics/fired-dc-employee-claims-bowser-administration-tried-to-steer-contracts-to-donor/2016/12/01/c04f887a-b7de-11e6-959c-172c82123976_story.html?noredirect=on&utm_term=.fd3275f89f9d.

[27] Council of the District of Columbia Committee on Transportation and the Environment, *Findings and Recommendations of Mary M. Cheh on the Department of General Services Contracting and Personnel Management* (June 14, 2017), available at http://marycheh.com/wp-content/uploads/2017/06/2017-06-14-DGS-Contracting-and-Personnel-Report-by-Mary-Cheh-no-attachments.pdf.

The report found that, although there was no direct evidence of political influence or motivation, there was evidence that Fort Myer was a favored District contractor and that senior executive officials acted with the intent of benefiting Fort Myer.[28] The report noted that Fort Myer plays a major role in the District as a campaign contributor and has contributed to numerous District officials, including Councilmembers and the last three Mayors.[29] It also found that the perception that the contractor is favored by the District government exists among other contractors, citing testimony that other contractors regularly abstained from bidding on contracts if Fort Myer was a competitor.[30] As a result of its findings, the Committee recommended that the Council should take action to regulate campaign contributions by contractors, noting that "where impressions of favoritism cause contractors to refrain from bidding on particular contracts, the lack of competition means that the District loses out – on price, work quality, and engagement of local workers or businesses."[31]

ii. *Other Jurisdictions*

At least seventeen states, the federal government, the Securities Exchange Commission, the Municipal Securities Rulemaking Board, and numerous cities, including New York City and Los Angeles, have implemented some form of pay-to-play restrictions.[32] Examples of states that have particularly robust regulations include Connecticut, Illinois, and New Jersey, as discussed in more detail below. Each state takes a slightly different approach with the goal of limiting government contractors' influence in the election and performance of state officials.

In Connecticut, covered individuals in the contracting entity may not make contributions during the contract period (from the negotiation to the December 31st after the termination of the contract).[33] Board members, officers, managers, those with at least 5% ownership interest, and spouses and children are subject to this restriction.[34] The penalty for violation is the cancellation of the government contract and a suspension for one year, as well as fines for violating election law.[35] The regulation applies to both no-bid and competitive contracts with a value of $50,000 or more for a single contract or $100,000 for all contracts – and applies to all state candidates and state and local party committees.[36]

---

[28] *Id.* at 44.
[29] *Id.*
[30] *Id.*
[31] *Id.* at 41-42.
[32] *See*, Craig Holman and Kyung rok Wi, *Pay-to-Play Restrictions on Campaign Contributions from Government Contractors*, Public Citizen, at 1 (2016), available at https://www.citizen.org/sites/default/files/pay-to-play_state_summary_report.pdf; *see also* Committee on the Judiciary and Public Safety Public Hearing on B22-0107, the "Campaign Finance Reform Amendment Act of 2017" (July 10, 2017) (oral testimony Adav Noti, Senior Director of Trial Litigation and Strategy, Campaign Legal Center), available at http://lims.dccouncil.us/Download/37360/B22-0107-HearingRecord1.pdf.
[33] CONN. GEN. STAT. § 9-612.
[34] *Id.*
[35] *Id.*
[36] *Id.*

In Illinois, covered individuals in the contracting entity may not make a contribution during the contract period and two years after the termination of the contract.[37] All members of the contracting entity with at least 7.5% controlling interest; officers; spouses; minors; subsidiaries; and nonprofits are subject to the restriction.[38] The restriction applies to both no-bid and competitive contracts with a value of $50,000 in aggregate annual state contracts.[39] It also applies to state candidates and officials responsible for awarding contracts, in addition to their political committees.[40] The penalty for violation is immediate cancellation of the contract, payment of money to the state, loss of all state contracts, and the entity cannot bid for new contracts for three years.[41] The entity's name is also publicly-listed as a violator.[42]

In New Jersey, covered individuals within the contracting entity are restricted to contributions of $300 per election from eighteen months prior to the award of the contract to the termination of the contract.[43] All principals with 10% ownership interest; spouses of individual contractors; and subsidiaries controlled by the entity are subject to the restriction.[44] The restriction applies to both no-bid and competitive contracts with a value of $17,500 or more (except highway contracts and eminent domain).[45] It also applies to gubernatorial candidates and state and county party committees.[46] The penalty for violation is that contractors are liable for up to the value of the contract and are banned from government contracts for five years.[47]

There are also strong pay-to-play restrictions at the federal level. In 1994, the Securities Exchange Commission ("SEC") approved one of the first effective pay-to-play restrictions in the nation, which effectively banned campaign contributions from bond dealers to municipal officials responsible for awarding government contracts to handle municipal securities.[48] The SEC concluded that these pay-to-play practices cost taxpayers money by "fostering a selection process that excludes those firms that do not make contributions, causes less qualified [contractors] to be retained, and undermines equitable practices in the municipal securities industry."[49] Congress has also recognized the potential for corruption inherent in pay-to-play practices by passing legislation to prohibit federal contractors from making certain contributions or expenditures directly to a candidate or political party, or for any political purpose.[50]

---

[37] 30 ILL. COMP. STAT. 500/50-37.
[38] *Id.*
[39] *Id.*
[40] *Id.*
[41] *Id.*
[42] *Id.*
[43] N.J. STAT. § 19:44A-20.13 *et seq.*
[44] *Id.*
[45] *Id.*
[46] *Id.*
[47] *Id.*
[48] 17 C.F.R. § 275.206(4)-5.
[49] Elizabeth Kennedy and Adam Skaggs, *The People's Business: Disclosure of Political Spending by Government Contractors*, Brennan Center for Justice, at 6 (June 16, 2011), available at https://www.brennancenter.org/analysis/people%E2%80%99s-business-disclosure-political-spending-government-contractors.
[50] 2 U.S.C. § 441c(a)(1) (2006).

In addition, New York City has enacted city-wide restrictions, which regulate contributions from entities "doing business" with the city through a database called the "Doing Business Database".[51] This publicly-accessible database lists individuals and their associated entities who are doing business with the city government. New York City's law is expansive and covers persons who have received or are seeking contracts, franchises, concessions, grants, pension fund investment contracts, economic development agreements, real property agreements, or land use actions with the city. The regulations apply to the following individuals associated with entities doing business: Chief Executive Officer or equivalent, Chief Operating Officer or equivalent, Chief Financial Officer or equivalent, anyone who owns or controls more than 10% of the entity, senior managers who have high-level supervisory capacity in which substantial discretion and oversight is exercised in business transactions with the city, and registered lobbyists. Contributions from anyone in the database are not matched with public funds (for public financing purposes) and are subject to lower contribution limits varying by office.[52]

iii. *Constitutionality*

Courts have generally been protective of efforts to preserve the integrity of the government contracting process through the enactment of pay-to-play laws, recognizing the special risk of corruption that certain types of contributions pose. In 2010, the U.S. Court of Appeals for the Second Circuit upheld Connecticut's law restricting contractor contributions to state officials.[53] The challenged provisions of Connecticut's law prohibit state contractors and certain lobbyists from (1) making campaign contributions to candidates for state office, and (2) soliciting campaign contributions on behalf of candidates for state office.[54] The Court found that the ban on contractor contributions "unequivocally addresses the perception of corruption" by "totally shutting off the flow of money from contractors to state officials" and eliminating the influence contractors hold over state officials through campaign contributions.[55] As a result, in light of the state's corruption scandals involving state contractors, the Court held that the outright ban on contributions by contractors, prospective contractors, and their principals was "closely drawn to meet the state's interest in combating corruption and the appearance of corruption".[56]

In 2015, a unanimous en banc U.S. Court of Appeals for the D.C. Circuit upheld the federal contractor contribution ban, which bars contractors from contributing "directly or indirectly" to federal candidates, political parties, or PACs, concluding that "the contracting context greatly sharpens the risk of corruption and its appearance."[57] The Court recognized two governmental interests sufficient to justify the ban: (1) preventing the actuality and appearance of corruption, and (2) preventing "interference with merit-based public administration" to ensure that contracting "depend[s] upon meritorious performance rather than political service".[58]

---

[51] *See*, http://www.nyc.gov/html/doingbiz/home.html.
[52] *Id.*
[53] *Green Party of Conn. v. Garfield*, 616 F.3d 189 (2d Cir. 2010).
[54] *Id.* at 7.
[55] *Id.* at 40.
[56] *Id.* at 41.
[57] *Wagner v. Fed. Election Comm'n*, 793 F.3d 1 (D.C. Cir. 2015), *cert. denied sub nom. Miller v. Fed. Election Comm'n*, 136 S. Ct. 895 (2016) (holding that if the ban were not in effect, "more money in exchange for contracts would flow").
[58] *Id.* at 8-9.

The Second Circuit has also upheld New York City's regulation of contributions from entities "doing business" with the city.[59] The law is expansive, covering persons who have received or are seeking contracts, franchises, concessions, grants, pension fund investment contracts, economic development agreements, or land use actions with the city.[60]

An outlier to these favorable cases is Colorado's pay-to-play constitutional amendment, which was invalidated by the Colorado Supreme Court in 2010 as overly broad – it applied to collective bargaining agreements as well as government contracts and prohibited any business or union that made a contribution to a local candidate from qualifying for a state government contract – neither of which restriction is present in the Committee Print.[61]

iv. *Committee Print*

The Committee agrees with testimony from public witnesses and subject-matter experts, including Public Citizen, the Brennan Center, and the Campaign Legal Center, that pay-to-play reforms are critical for the District to maintain confidence in the integrity of the government contracting process. Pay-to-play contracting does not usually take the form of outright bribery, but rather more likely involves the contractor buying access for consideration of a government contract. This not only damages the integrity of the contracting process, but it undermines the public's confidence in government. The Committee Print takes strides to separate campaign contributions from government contracts and rebuild public confidence in the integrity of both the District's government contracting process and its elections.

Definitions

The Committee Print bars the District from entering into a "contract" with a "covered contractor" if the covered contractor contributes to a "prohibited recipient" within the "prohibited period". The following are important definitions for purposes of this section:

1. "**Contract**" = agreements with an aggregate value of $250,000 or more, including the value of any option period or similar contract extension or modification, for:

    a. The rendition of services;
    b. The furnishing of any goods, materials, supplies, or equipment;
    c. The construction, alteration or repair of any District government-owned or District government-leased property;
    d. The acquisition, sale, lease, surplus, or disposition of any land or building;
    e. A licensing arrangement;
    f. A tax exemption or abatement; or

[59] *Ognibene v. Parkes*, 671 F.3d 174 (2d Cir. 2011).
[60] *Id.* at 179.
[61] *Dallman v. Ritter*, 225 P.3d 610 (Colo. 2010) (holding that the state's entire pay-to-play constitutional amendment was invalid on several grounds, including that the amendment violated free speech rights and the language was unconstitutionally vague and overbroad).

g. A loan or loan guarantee, not including loans made for other than commercial purposes, such as educational loans or residential mortgage loans.

The Committee reviewed pay-to-play statutes from other jurisdictions and concluded that the types of legal relationships above were either commonly included in the definition of a "contract" or should be due to specific experiences in the District. The Committee Print's definition of "contract" is broad because the Committee believes that the threat of influence in a relationship between government officials and those doing business with the District extends beyond traditional contracts for goods or services. For example, as discussed *supra*, the Council plays an important role in granting tax abatements or exemptions by introducing the necessary legislation. As a result, Councilmembers are vulnerable to criticism of pay-to-play practices when it is revealed that the same Councilmembers introducing the legislation have accepted campaign contributions from the developers or lobbyists who stand to benefit from the tax abatement or exemption. Similarly, the Council is responsible for moving legislation to approve a surplus or disposition of District property, and therefore Councilmembers run the risk of similar allegations of pay-to-play as they do with tax abatements and exemptions.

The Committee also settled on a threshold value of $250,000 for a contract, including any option years or modifications associated with that contract. The campaign finance bills pending in Committee similarly included different definitions and contract values. Councilmember Gray and Attorney General Racine's bills notably included grants; the former set a threshold value of $250,000, and the latter of $100,000. Chairman Mendelson's pay-to-play proposal was only for contracts for goods or services, and the contract value was $100,000. The Committee carefully considered the contract value and concluded that $100,000 was too low a threshold and would capture too many contracts where the potential financial benefit to the contractor is negligible. A simple search of the Office of Contracting and Procurement's Awarded Contracts Database[62] lists 268 contract awards with a value of between $25,000 and $50,000, and another 750 contracts with a value between $50,001 and $100,000.

2. "**Covered contractor**" = any business entity,[63] including its principals, seeking or holding a contract or multiple contracts with an aggregate value of $250,000 or more with the District government.

The Committee Print's definition of the contractors that are covered by the bill includes "principals" of the contractor, as do many other jurisdictions. "Principals" are defined as senior officers of that business entity, such as president, executive director, chief executive officer, chief operating officer, or chief financial officer. If a business entity is an educational institution, "principal" does not include deans of that "business entity" – this exemption is to enable, for example, large educational institutions not to foreclose all contracting opportunities with the District in excess of $250,000 just because one dean of, for example, that educational institution's business school, contributes $50 to a candidate for Mayor. The Committee purposely does not

[62] *See*, http://app.ocp.dc.gov/RUI/information/award/search.asp (accessed October 15, 2018).

[63] Under D.C. Official Code § 1-1161.01(4), "business entity" means "any corporation, partnership, sole proprietorship, firm, nonprofit corporation, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock, trust, and any legal entity through which business is conducted, whether for profit or not."

include boards of directors in this definition, reasoning that such a restriction would inhibit potential board members from serving on the District's many non-profit boards.

The Committee Print relies on contracting authorities to have contractors self-report their principals at the time that they seek a contract with the District, and the District's contracting authorities will be responsible for ensuring compliance with this requirement and updating submitted information as necessary. Some jurisdictions and the other bills pending in the Committee[64] would go deeper into the contractor's leadership structure, and sometimes include related entities and immediate family members of the contractor and its leadership. While the Committee anticipates that there could be situations in which contractors attempt to skirt the contribution restrictions by having their immediate family members or their leadership team contribute in lieu of their own contribution,[65] at this juncture, the Committee felt more comfortable in this first legislative bite at the pay-to-play apple with only regulating principals' contributions. The logistical and technological implementation of the Committee Print will already be extensive with only the listed principals included, and if the definition were extended deeper into a business entity's leadership structure, or to related parties or immediately family members, the list of covered contractors could number in the hundreds of thousands. Such an extensive regime would be doomed to fail administratively – for example, it would be impractical for the domestic partner of the spouse of a covered contractor to know of the restrictions imposed on their contributions or the potential harm to the contractor caused by even a small contribution.

3. "**Prohibited recipient**" =

   a. If the covered contractor is seeking or holding a contract with, or for which the procurement process would be overseen by, a District agency **subordinate to the Mayor**: the Mayor; any candidate for Mayor; any political committee affiliated with the Mayor or a candidate for Mayor; and any constituent-service program affiliated with the Mayor.

   b. If the covered contractor is seeking or holding a contract with the **Office of the Attorney General**: the Attorney General; any candidate for Attorney General; and any political committee affiliated with the Attorney General or a candidate for Attorney General.

---

[64] Councilmember Gray's proposed legislation would have included "related parties" and would have limited the contributions of a covered contractor's immediate family members to $300 per person per election. Chairman Mendelson's legislation similarly would have included "business contributors" as covered contractors; this would have included a business entity making a contribution and all of that entity's affiliated entities.

[65] For example, in the case of Jeffrey Thompson and the federal investigation into political corruption – Thompson's longtime associate Jeanne Clarke Harris pleaded guilty to felony charges of funneling funds from businesses owned by a co-conspirator. These funds went to family members and friends who then made contributions to political candidates, adding up to $653,000 in spending not reported to government regulators as required by law. Thompson pleaded guilty to funneling more than $2 million in illegal contributions to campaigns. *See,* Mike DeBonis, *Who is Jeffrey Thompson?*, WASH. POST (March 20, 2014), available at https://www.washingtonpost.com/local/dc-politics/who-is-jeffrey-thompson/2014/03/10/66abce0c-99a8-11e3-80ac-63a8ba7f7942_story.html?utm_term=.8178fb857f1f.

c. If the covered contractor is seeking or holding a contract that must either **come before the Council for its approval or which otherwise must be approved by the Council** legislatively to take effect (such as tax abatements or exemptions, or surpluses and dispositions of District property): any Councilmember; any candidate for Councilmember; any political committee affiliated with a Councilmember or a candidate for Councilmember; and any constituent-service program affiliated with a Councilmember.

In the Committee Print, "prohibited recipients" – those public officials and their affiliated political committees and constituent-service programs to which covered contractors may not contribute during a "prohibited period" – differ depending on the mechanism by which the contract would be procured or approved. Although the details may appear complicated, the principle is simple: a covered contractor cannot contribute to the public official who has or could have (because the public official is a candidate for that office) the responsibility for overseeing the procurement or approval.

If the contract would be held or procured by a District agency or instrumentality subordinate to the Mayor, the prohibited recipient would be the Mayor or a candidate for Mayor.[66] This will capture the vast majority of contracts, as the Office of Contracting and Procurement ("OCP") and the independent – but subordinate – procurement authorities handle most contracting and procurement.[67] It is also possible that an agency independent from the Mayor would use a subordinate procurement authority – as in the Board of Elections using OCP's services to contract for a new voter database – in which case, although the contract itself is with an independent agency not subordinate to the Mayor (therefore, no potential to garner influence by a covered contractor contributing to the Mayor), the authority which reviews the contract *is* subordinate, and therefore contributions should not flow to the public official who oversees that authority – in this case, the Mayor. "Prohibited recipient" is similar for the Office of the Attorney General, although those contracts are likely few and far between. Councilmembers, their affiliated political committees, and their constituent-service programs would be "prohibited recipients" if the contract could come before the Council, *i.e.* it is a multi-year contract, its value is over $1,000,000, or it originates in legislation and has a value of $250,000 or more, such as a surplus or disposition of District property or a tax abatement or exemption.

The Committee Print notably does not bar prohibited recipients from *accepting* such contributions; rather, the onus is on the contracting authority and the covered contractor. The Committee requires OCP – which already maintains a publicly-accessible database that captures many of the contracts under the bill – to work collaboratively with the CFB to prevent improper contract awards. It is unnecessary, therefore, for campaigns – which are often run on a shoestring budget with all volunteers – to be required to doublecheck one or more databases to identify, for each contribution, whether the contributor is a covered contractor. With that said, the Committee Print does require each contracting authority to maintain a publicly-accessible list of covered

[66] "Public official" in D.C. Official Code § 1-1161.01(47) also includes candidates.

[67] For a list of those District agencies independent or exempt from OCP's authority, *see*, https://ocp.dc.gov/sites/default/files/dc/sites/ocp/page_content/attachments/OCP%20District%20Agency%20Procurement%20Authority%20%28March%2031%2C2017%29.pdf.

contractors for that authority on its website, and the new CFB will check contributions against this information.

In the case that the prohibited recipient is a Councilmember, the Committee Print also requires bids or applications for proposed contracts submitted to the Council to contain a summary including the names of the contractor's principals, a description of any other contracts the proposed contractor is currently seeking or holds with the District, and a certification that the proposed contractor has been determined not to be in violation of the bill's pay-to-play provisions.

4. **"Prohibited period" =**

    a. If the "contract" is for the rendition of services; the furnishing of any goods, materials, supplies, or equipment; the construction, alteration, or repair of any District government-owned or District government-leased property; or the acquisition or sale of any land or building;

        i. From the date of the solicitation or similar invitation or opportunity to contract to:

            1. If the contractor's response is unsuccessful, the termination of negotiations or notification by the District that the covered contractor's response was unsuccessful; or
            2. If the covered contractor's response is successful, one year after the termination of the contract;

    b. If the "contract" is a lease, licensing arrangement, or loan or loan guarantee:

        i. From the date of the solicitation or similar invitation or opportunity to contract to:

            1. If the covered contractor's response is unsuccessful, the termination of negotiations or notification by the District that the covered contractor's response was unsuccessful; or
            2. If the covered contractor's response is successful, one year after the entrance into the contract;

    c. If the "contract" is a surplus or disposition of any land or building:

        i. From the date of the solicitation or similar invitation or opportunity to contract to:

            1. If the covered contractor's response is unsuccessful before the introduction of legislation before the Council, the termination of negotiations or notification by the District that the covered contractor's response was unsuccessful; or

2. If the covered contractor's response is successful and legislation is introduced before the Council:
    a. If the legislation is pending, the end of that Council period; or
    b. If the legislation passes, one year after the effective date of the legislation;

d. If the "contract" is a tax abatement or exemption:

    i. From the introduction of legislation before the Council, or the inclusion of such in a contract in pending legislation, to:

        1. If the legislation is pending before the Council, the end of that Council Period; or
        2. If the legislation passes, one year after the effective date of the legislation.

The prohibited periods will differ depending on the type of contract, but again, the principle is simple: a covered contractor should not be contributing while they are actively seeking or holding a contract. "Actively seeking" will also differ depending upon the type of contract, and the Committee will look to the contracting authorities for guidance on that definition.

Enforcement

Implementation and enforcement of the Committee Print's pay-to-play provisions will be a significant and complicated task, and the Committee is therefore delaying the applicability of these provisions until November 4, 2020, to provide sufficient time for the various contracting authorities and the CFB to prepare for the rollout. The most important component is a database accessible to all parties, including the public, that provides an active and searchable list of covered contractors (and their principals), active contracts, and prohibited recipients, similar to New York City's Doing Business Database. The public and campaigns must be able to easily access up-to-date information, and prospective and current contractors must be aware before bidding on contracts and during their period of performance. The Committee's intent is also not to penalize campaigns for non-compliance with this new regime, and it will be imperative to build in time before the law is effective to account for a robust educational component for all parties – particularly as the Fair Elections Program will become effective not three weeks from the date of this report.

To facilitate implementation and enforcement, the Committee Print requires each contracting authority to maintain a publicly-available list of all covered contractors, including principals, for the contracts of that contracting authority. Each contracting authority will be responsible for notifying covered contractors of prohibited recipients for each contract (as well as likely prohibited recipients, based on the estimated value). Contract authorities will also work with the CFB to identify, for each covered contractor, whether they have contributed to a prohibited recipient during the prohibited period.

The Committee Print mandates that the website established by the Chief Procurement Officer (of OCP) provide clear instructions on how to respond electronically or non-electronically to each solicitation, include information about the prohibited recipients or likely prohibited recipients for each contract, and include the pay-to-play provisions of this Print. Moreover, the Committee Print requires that OCP's existing database containing information regarding each contract executed by the District for an amount equal to or greater than $100,000 must contain a notation identifying whether the vendor is a covered contractor and to which public officials the vendor is prohibited from making campaign contributions and during what prohibited period.

In addition, because the definition of contract includes tax exemptions and abatements that would come before the Council, the Committee Print amends the District's tax abatement financial analysis ("TAFA") requirements to require that, if the estimated aggregate value of the exemption or abatement is $250,000 or more, TAFAs – analyses prepared by the Office of the Chief Financial Officer for tax exemptions and abatements pending before the Council – must include a list of the contributions made, from the date of the bill's introduction to the date of the TAFA, by the grantee of the exemption or abatement and the principals of the grantee, to the Mayor, any Councilmember, or any candidate for Mayor or Councilmember; any political committee affiliated with the Mayor, Councilmembers, or candidates for those offices; and any constituent-service program affiliated with the Mayor, Councilmembers, or candidates for those offices. The Print also requires TAFAs to include a list provided by the grantee of any contracts that the grantee is seeking or holds with the District government.

Penalties

The Committee Print includes several new remedies exclusively for its pay-to-play provisions. A contractor who violates the Committee Print's pay-to-play provisions may be considered to have breached the terms of any existing contract with the District, and, at the discretion of the contracting authority, the contract may be terminated. The contractor may also be disqualified from eligibility from future District contracts for the period of four years from the date of violation. In addition, the names of violators (both prohibited recipients and covered contractors) must be prominently displayed on the CFB's website.

3. Limiting the Influence of Money as a Corrupting Force in District Politics

In addition to restricting contributions by government contractors, the Committee Print seeks to limit the influence of money in politics through several reforms: by (1) prohibiting bundling by lobbyists to principal campaign committees, exploratory committees, inaugural committees, transition committees, and legal defense committees; (2) requiring that campaign debt be retired within a certain period and limiting the repayment of personal loans; (3) clarifying legal defense committees; (4) limiting contributions to inaugural and legal defense committees; (5) applying contribution limits to PACs in non-election years; and (6) reforming constituent-service programs (also known as constituent services funds).

i. *Lobbyist Bundling*

> The role of a lobbyist is both legitimate and important to legislation and government decisionmaking, but by its very nature, it is prone to corruption and therefore especially susceptible to public suspicion of corruption. *Any payment* made by a lobbyist to a public official, whether a campaign contribution or simply a gift, calls into question the propriety of the relationship...[68] [*emphasis in original*].

Bundling means to "forward or arrange to forward two or more contributions from one or more persons by a person who is not acting with actual authority as an agent or principal of a committee."[69] Put more simply, bundling by lobbyists is a way of aggregating influence with elected officials through coordinated fundraising. Rather than contributing once as an individual, lobbyists can bundle contributions to flex their political muscle to public officials on behalf of their employers. In the District, benefits from bundling could take the form of a meeting being scheduled more quickly than it would be for an ordinary resident, facetime with a public official, an appointment to a board or commission, or a beneficial decision for the lobbyist's employer.

Under current law, lobbyists must disclose any bundling of contributions on their bi-annual activity reports submitted to BEGA,[70] but the Committee is unaware of any such disclosures to date.[71] Although meaningful, the disclosure provisions passed in the Council's most recent campaign finance reform omnibus legislation – the Campaign Finance Reform and Transparency Amendment Act of 2013 – did not enhance transparency in the end, in part due to the method by which lobbyist activity reports have been published on BEGA's website as thousands of individual pdfs. In fact, the Committee at the time stated that "...disclosure of bundled contributions is meaningless without the capability to effectively and efficiently conduct a search of filed Activity Reports on BEGA's website".[72] But more importantly, disclosure by itself did not address the District's underlying interest in reducing the perception or actuality of corruption.

In the District, lobbyists are not limited in their ability to bundle,[73] although a number of other jurisdictions have done so. Connecticut prohibits lobbyists from bundling contributions on behalf of executive and legislative branch candidates.[74] In North Carolina, lobbyists are prohibited

---

[68] *Preston v. Leake*, 660 F.3d 726, 737 (4th Cir. 2011).
[69] D.C. Official Code § 1-1161.01(3A).
[70] D.C. Official Code § 1-1162.30(a)(7).
[71] In Title I, Subtitle I, of the Fiscal Year 2019 Budget Support Act of 2018, the Committee included language requiring BEGA to make the information in activity reports more publicly accessible and sortable, including by listing each political expenditure or contribution of $50 or more by a lobbyist. *See,* http://lims.dccouncil.us/Download/39944/B22-0753-Enrollment.pdf at 25-26; in the former Committee on Government Operations' Committee Report on the last campaign finance reform package passed by the Council, the Committee stated that it was enhancing bundling disclosure requirements because "[m]ost lacking in the District's campaign finance laws is sufficient transparency related to the campaign contributions of registered lobbyists and their employers." *See*, Council of the District of Columbia Committee on Government Operations, *Committee Report on B20-0076, the "Campaign Finance Reform and Transparency Amendment Act of 2013"* 12 (Oct. 22, 2013), available at http://lims.dccouncil.us/Download/29232/B20-0076-CommitteeReport.pdf.
[72] *Id.* at 15.
[73] *See* D.C. Official Code § 1–1162.30.
[74] Public Act 10-1 (July 2010 Special Session); *see*, https://www.ct.gov/seec/cwp/view.asp?a=3558&Q=464980.

from bundling contributions for legislators or candidates running for office.[75] That state goes a step further and prohibits lobbyists from making contributions to members of the state legislature while the state legislature is in regular session.[76] The Committee Print does not similarly bar lobbyists from making contributions, but it does prohibit bundling by lobbyists to principal campaign committees, exploratory committees, inaugural committees, transition committees, and legal defense committees. The Committee Print does not limit bundling to PACs,[77] as PACs are definitionally unaffiliated with candidates (unlike the restricted committees), so the same ability to influence a public official through a contribution does not exist.

ii. *Retiring Campaign Debt and Limiting Personal Loans by Candidates*

Under current law, there is no requirement that principal campaign committees close out their campaign debt within a certain time frame. As a result, many committees remain open for years, even more than a decade, after an election. Some candidates who have been successful in their races have continued to fundraise once in office to retire their campaign debts. District law permits this practice, providing that contributions made to retire debts are subject to the same contribution limits for that office (even if made after the election), the amount and nature of the debts owed must be continuously reported until extinguished, and committee fund balances may be used to retire the committee's debts.[78] As of the date of this report, there are seventeen open committees due to unpaid debt, and five committees pending approval for termination.[79] The oldest open committee is Orange for Mayor, opened on June 24, 2005, which still carries $97,500 worth of debt.[80]

Campaigns frequently maintain debt post-election, but unless they are in the process of winding down or resolving a pending campaign finance audit, they have overextended if they have debt outstanding for a significant period. Large debts are particularly troubling if the candidate won their election and then fundraises on that debt while in office.[81] Contributions to candidates,

---

[75] N.C. GEN. STAT. § 120C-302.

[76] *Id.* Arizona similarly prohibits contributions to legislators or the governor while the legislature is in session. ARIZ. REV. STAT. ANN. § 41-1234.01. California prohibits lobbyists from making a contribution to any candidate for a state office that the lobbyist has registered to lobby. CAL. GOV'T CODE § 85702.

[77] Councilmember Gray's bill had proposed restricting lobbyist bundling to political committees, PACs, and IECs, but not bundling to political committees and PACs for initiatives and referenda.

[78] Unlike principal campaign committees, there are limits on other types of committees. Exploratory committees cannot exceed eighteen months, after which they must transfer the fund balance to a principal campaign committee, political committee, or nonprofit organization. D.C. Official Code § 1-1163.18; D.C. Official Code § 1-1163.21. Inaugural committees must terminate no later than 45 days from the beginning of the term of the new Mayor, but they may continue to accept contributions to retire their debts. D.C. Official Code § 1-1163.24. Any fund balance must be transferred to a nonprofit organization or constituent service program. D.C. Official Code § 1-1163.23. Transition committees must similarly terminate no later than 45 days after the beginning of the term of the new Mayor, Council Chairman, or Attorney General, and the committee may continue to accept contributions to retire its debts. D.C. Code § 1-1163.27. Fund balances must be transferred to a nonprofit organization or constituent service program. D.C. Code § 1-1163.25.

[79] Information provided to the Committee by the Office of Campaign Finance.

[80] *Id.*

[81] For example, during his 2014 campaign for Attorney General, Karl Racine loaned his campaign $451,000. After his election, he fundraised to pay himself back some of the funds, which is legal under current law. Martin Austermuhle, Racine, *Champion of Campaign Finance Reform, Faces Some Issues of His Own*, WAMU (Sept. 12, 2017), available at https://wamu.org/story/17/09/12/racine-champion-campaign-finance-reform-faces-issues/.

if given to garner influence, are at least speculative, but once that candidate becomes a public official, the official now has business before them and a host of conflicts – in other words, there are more strings attached post-election. The potential for corruption is all the more significant when the debt owed to the candidate or public official is to repay a personal loan. In a recent WAMU article, Adav Noti, an attorney with the Campaign Legal Center, notes: "There's always at minimum an optical concern with officeholders soliciting funds from, among others, the people they regulate. That concern can be heightened when the funds that are being solicited are used to pay back a loan that the office holder made to their campaign."[82]

The Committee Print therefore amends current law by requiring that any excess campaign funds used to retire debts of committees be used for that purpose within certain timeframes or personal liability will be invoked. For principal campaign committees, debts must be retired within six months following the election or they become liabilities to the public official. For inaugural and transition committees, candidates now have six months after the beginning of the term of the new Mayor (for inaugural committees) or the new Mayor, Chairman, or Attorney General (for transition committees) in which to repay debts using campaign funds. Candidates are prohibited from fundraising to retire these debts after six months. In addition, the Committee Print allows excess campaign funds to be used to repay personal loans by a candidate to their political committee only up to $25,000. The Committee believes that this measure helps level the playing field for candidates who do not have vast personal wealth at their disposal to loan their own campaigns, and the new limit will also discourage public officials from fundraising on large personal loans while in office.

Federal and state requirements for the retirement of campaign debt, and specifically personal loans to the campaign from the candidate, differ from the District. Federal law requires that for personal loans that, in the aggregate, exceed $250,000, the committee may (1) repay the entire amount of the loans using contributions if those contributions were made on the day of the election or before; and (2) repay only up to $250,000 of the loans from contributions made after the election.[83] If the committee uses its cash on hand after the election to repay all or part of the personal loans over $250,000, it must do so within twenty days.[84] Several states and municipalities impose restrictions: Washington State goes farther than the Committee Print in limiting the repayment of personal loans to the candidate to $5,500, indexed to inflation;[85] Alabama permits contributions to retire debt in a 120-day post-election window but does not require that cash on hand be used for that purpose; [86] Georgia mirrors federal law, setting a cap on the repayment of personal loans at $250,000 post-election;[87] and Illinois takes a different approach, permitting unlimited loans to the committee, but the candidate becomes "self-funded" if, during the twelve months prior to the election, the candidate and associates loan a certain amount, thereby causing the contribution limits for all candidates to be waived.[88]

---

[82] *Id.*
[83] 52 U.S.C. § 30116(j); 11 C.F.R. § 116.11(b).
[84] *Id.* at (c).
[85] WASH. REV. CODE ANN. § 42.17A.445(3).
[86] ALA. CODE § 7-6-219.
[87] GA. CODE. ANN. § 21-5-41(h).
[88] 10 ILL. COMP. STAT. ANN. 5/9-8.5.

Several cities also impose restrictions: in Houston, Texas, a candidate cannot be reimbursed for personal loans to their campaign in excess of $75,000 for Mayor or city-wide offices, or $50,000 for a district council office.[89] In Berkeley, California, candidate-controlled committees may receive contributions designated for a prior cumulative period only to help retire a campaign debt,[90] and the contributor must not have contributed the maximum of $250 during that earlier period. Candidate-controlled committees may only receive such contributions until the end of the second semi-annual filing period (*i.e.*, December 31) in the next even-numbered year after the prior election.[91] For example, where a candidate-controlled committee has campaign debts remaining from the November 2014 election, it is prohibited from accepting contributions to retire this debt after December 31, 2016.[92] In New York City, loans from the candidate or from anyone else have to be repaid by the date of the election or they become contributions, subject to contribution limits.[93] Candidates who participate in the city's public financing program are allowed to contribute three times the contribution limit to their own campaign.[94]

iii. *Reforming Legal Defense Committees*

A legal defense committee is "a person or group of persons organized for the purpose of soliciting, accepting, and spending funds to defray the professional fees and costs for a public official's legal defense to one or more civil, criminal, or administrative proceedings."[95] To the Committee's knowledge, such a committee has never been created in the District. The Committee Print makes a minor amendment by allowing public officials to maintain legal defense committees only for the purpose of defraying attorney's fees and other related costs for the official's legal defense to one or more civil, criminal, or administrative proceedings *arising directly out of the conduct of a campaign, the election process, or the performance of the public official's governmental activities and duties.* The Print thus clarifies that these committees may only be used for the public official's legal defense in actions that are directly related to the public official's status as a public official. This is in keeping with best practices in a number of states, including Connecticut, Massachusetts, Michigan, Nevada, North Carolina, Oregon, and Wisconsin.[96] Los Angeles, San Diego, and San Jose also provide for legal defense committees.[97]

iv. *Limiting Contributions to Inaugural and Legal Defense Committees*

Current law sets the limits for individual contributions to inaugural[98] and legal defense committees[99] at $10,000 per individual. These limits are significantly higher than the limits to

---

[89] Houston Ord. § 18-37.
[90] FCPC Reg. R2.12.415.2(a).
[91] *Id.*
[92] *Id.*
[93] New York City Admin. Code §§ 3-710, 3-711.
[94] *Id.*
[95] D.C. Official Code § 1-1161.01(30).
[96] Michael Halberstam and Susan Lerner, *Policy Proposal for the Regulation of Legal Defense Funds under New York City Laws*, New York Common Cause, at 5 (July 6, 2017), available at https://www.commoncause.org/wp-content/uploads/legacy/states/new-york/research-and-reports/policy-proposal-for-the-regulation-of-legal-defense-funds-under-nyc-laws.pdf.
[97] *Id.*
[98] D.C. Official Code § 1-1163.22.
[99] D.C. Official Code § 1-1163.29(e)(1).

exploratory committees[100] – $2,000 for Mayor, $1,500 for Council Chairman and Attorney General, $1,000 for at-large Councilmember, $500 for Ward Councilmember or At-Large State Board of Education Member, and $200 for Ward State Board of Education member – and transition committees – $2,000 for Mayor and $1,000 for Council Chairman in the aggregate.[101] The Committee Print brings the outsized limits for inaugural and legal defense committees in line with the others listed by capping them both at $2,000 per person.

v. *Applying Contribution Limits to PACs in Non-Election Years*

The Committee Print also makes temporary legislation passed by the Council permanent by applying current contribution limitations to PACs during nonelection years.[102] Existing District law does not limit contributions to PACs in nonelection years.[103] In passing the temporary legislation, the Council determined that it was important to implement the same contribution limits during nonelection years to ensure that the activities of PACs are transparent and accountable.[104]

Based on the Court of Appeals for the D.C. Circuit's reasoning in *EMILY's List v. FEC*,[105] contributions to a PAC account that is only used for independent expenditures cannot be limited. The Court held that the government cannot restrict independent political spending by nonprofit groups or political committees, and that doing so violates the First Amendment rights of such groups. However, the Committee Print does not run afoul of this ruling by implementing contribution limits on PACs in non-election years. The Committee Print, as discussed more fully *infra*, allows PACs to create separate "non-contribution accounts" from which they may make unregulated independent expenditures not subject to contribution limits. The contribution limits imposed by both current law and this Print apply only to the accounts of PACs used to make contributions. This is made clear by the Committee in an amendment to D.C. Official Code § 1-1163.33.

vi. *Reforming Constituent Service Funds*

The Committee notes that the restrictions on constituent-service programs proposed by Chairperson Allen in the draft Committee Print – described in this section of the report – were repealed via an amendment offered at the Committee's October 18, 2018, markup on the legislation. See the Committee Action section of this report for further explanation.

Currently, the Mayor and eight members of the Council maintain constituent-service programs, also known as constituent services funds ("CSFs").[106] CSFs may be used to fund a

[100] D.C. Official Code § 1-1163.19(b).
[101] D.C. Official Code § 1-1163.26.
[102] L22-42, the "Campaign Finance Reform and Transparency Second Temporary Amendment Act of 2017", became effective on January 17, 2018, and expired on August 30, 2018. B22-0863, the "Campaign Finance Reform and Transparency Temporary Amendment Act of 2018, is currently under congressional review.
[103] D.C. Official Code § 1-1163.33.
[104] PR21-1067, the "Campaign Finance Reform and Transparency Emergency Declaration Resolution of 2016", available at http://lims.dccouncil.us/Download/36927/PR21-1067-Introduction.pdf.
[105] 581 F.3d 1 (D.C. Cir. 2009).
[106] The Councilmembers are Chairman Phil Mendelson and Councilmembers Anita Bonds, Mary Cheh, Jack Evans, Vincent Gray, Kenyan McDuffie, Brandon Todd, and Trayon White. *See also* Andrew Giambrone and Tom Sherwood, *Do Constituent Service Funds Always Serve Constituents?*, WASH. CITY PAPER (May 10, 2018),

variety of purposes, including funeral arrangements, emergency housing, past due utility payments, food and refreshments or an in-kind equivalent on infrequent occasions, community events not sponsored by the District government, and community-wide events.[107] All expenditures must accrue to the "primary benefit of residents of the District of Columbia".[108]

CSFs have often been the subject of controversy. For example, one Councilmember recently came under criticism for a CSF contribution to an out-of-District event held by a national organization.[109] Members of the public have also criticized the existence of CSFs. The *Washington Post* Editorial Board has suggested that CSFs' main purpose is to "make public officials look good" and should be eliminated.[110] The editorial states that many payments from CSFs do not go to actual constituents – rather, "[c]ommon uses include buying program ads or tickets to community group events...[or] to caterers and to consultants".[111] It concludes that CSFs are "second campaign accounts that can be used with broad discretion", noting that "the contributors are the very same entities that underwrite the city's election campaigns – those seeking access and city business...".[112]

Given the criticism and concerns surrounding CSFs, the Committee Print clarifies that CSFs must only be used for an activity, services, or program that *directly* provides services to District residents. It also adds a new disallowable expenditure for CSFs: year-long or season admissions to theatrical, sporting, or cultural events. The Committee Print further prohibits excess funds in certain political committees from being rolled over into CSFs.

4. Addressing Improper Coordination Between Public Officials and PACs and IECs

In its 2010 decision in the *Citizens United* case, the Supreme Court held that the First Amendment prohibits the government from restricting independent expenditures for communications by nonprofit corporations, for-profit corporations, labor unions, and other

---

available at https://www.washingtoncitypaper.com/news/loose-lips/article/21004483/do-constituent-services-funds-always-serve-constituents. As of April 2018, the amount of money held in these accounts by Councilmembers ranged from as little as $350 to approximately $163,000. *Id.*

[107] D.C. Official Code § 1-1163.38(b)(2).

[108] D.C. Official Code § 1-1163.38(b)(1).

[109] Fenit Nirappil, *Trayon White paid back constituent fund for 'inappropriate' Nation of Islam donation*, WASH. POST (Aug. 21, 2018), available at https://www.washingtonpost.com/local/dc-politics/trayon-white-paid-back-constituent-fund-for-inappropriate-nation-of-islam-donation/2018/08/21/ec79714a-a567-11e8-a656-943eefab5daf_story.html?utm_term=.8eca240aca56; *see also, Order of the Office of Campaign Finance in the Matter of Do Something Constituents Fund, Docket No. OCF 18R-011*, Office of Campaign Finance (July 25, 2018), available at https://efiling.ocf.dc.gov/FinanceEnforcement/DownloadReport?fileName=CSSCC8166839_OCF18R-011_OrderReport_07252018.pdf. OCF determined that the donation "did not inure to the benefit of the residents of the District of Columbia" and was therefore an inappropriate use of CSF funds. The agency closed its investigation without penalty after the Councilmember reimbursed his CSF for the donation.

[110] Editorial Board, *The D.C. Council should rethink the 'constituent services fund'*, WASH. POST (Aug. 7, 2011), available at https://www.washingtonpost.com/opinions/the-dc-council-should-rethink-the-constituent-services-fund/2011/08/03/gIQAIOZC1I_story.html?utm_term=.36ba42961d70.

[111] *Id.*

[112] *Id.* After the 2016 elections, four Councilmembers transferred surplus campaign funds to their CSFs. *Supra*, note 110.

associations.[113] The Court ruled that political spending is a form of protected free speech, and thus, while direct contributions may be limited due to a risk of corruption, independent spending may not be limited.[114] This landmark decision has allowed unfettered money to flow into American elections, mostly from the super-wealthy.

The Court's decision in *Citizens United* rested on a critical assumption – that unlimited spending should happen *independent* of candidates, in other words, not in coordination with candidates.[115] The Court continues to recognize that coordinated spending can be corrupting, and, therefore, it is subject to reasonable limits.[116] The problem is that, in reality, outside spenders often work with candidates who have incentives to protect the spenders' interests once elected. This occurs both on the federal level, *e.g.*, with prominent spenders like the Koch brothers, and at the state and local level. For example, candidates' trusted associates have organized IECs and PACs to amass funds.[117] Candidates have fundraised for these affiliated, yet unrestricted, groups.[118] Campaigns and outside groups also have found ways to collaborate in their messaging and use a common roster of strategists and other providers.[119]

While is important to acknowledge that stronger coordination regulation is not a cure-all for the structural problems caused by the outsized influence of wealthy interests in our elections, strong and well-enforced anti-coordination laws can make a meaningful difference in safeguarding election integrity. Coordination regulation prevents end runs around direct contribution limits, which are meant to minimize the opportunity for *quid pro quo* corruption. This kind of regulation identifies coordinated spending that should be subject to disclosure or contribution limits. In addition, anti-coordination provisions can encourage candidates to opt into public financing programs without fear of unfair competition from candidates with connected, unlimited spenders.

i. *Other Jurisdictions*

Generally, state laws treat contributions or expenditures as coordinated if they are based on "substantial discussion" between the spender and candidate. This standard does not adequately capture the many ways in which collaboration occurs. According to a report by the Brennan Center, in most states, laws meant to deter coordinated spending are too ambiguous, narrow, or weakly enforced.[120] The Brennan Center report found that California, Connecticut, Maine, and Minnesota

---

[113] *Citizens United v. FEC*, 558 U.S. 310 (2010).
[114] *Id.*
[115] *Id.*
[116] *Id.*
[117] An example of this in the District is the controversial FreshPAC, a PAC that was closely associated with the Mayor and was named to recall the Mayor's "fresh start" campaign slogan. *See*, Aaron Davis, *D.C. mayor's allies reluctantly shut down controversial PAC*, WASH. POST (Nov. 11, 2015), available at https://www.washingtonpost.com/local/dc-politics/dc-mayors-allies-reluctantly-shut-down-controversial-pac/2015/11/11/63d48b32-884a-11e5-be39-0034bb576eee_story.html?utm_term=.303cdeea8749. In 2015, the PAC shut down after allegations of pay-to-play politics and improper coordination. FreshPAC had been created by the Mayor's former campaign treasurer. *Id.*
[118] *Id.* The Mayor appeared at fundraisers for FreshPAC on two occasions.
[119] *Id.*
[120] Chisun Lee et al., *After Citizens United: The Story in the States*, Brennan Center for Justice, at 2 (October 2014), available at https://www.brennancenter.org/publication/secret-spending-states.

have the strongest state anti-coordination laws.[121] California's law includes a presumption of coordination if the outside spender uses any provider who has provided the relevant candidate's campaign with political or fundraising strategy in the same election.[122] Similarly, Maine's law presumes coordination if a spender and candidate use the same strategists or staff.[123] Connecticut's law, which also includes a presumption of coordination, broadly defines the type of spending subject to regulation: any expenditure that is made in coordination with a candidate, where expenditure means any payment made to promote the success or defeat of a candidate.[124] Minnesota requires that all steps leading up to a political communication, including "fundraising, budgeting decisions, media design . . . production, and distribution," be independent of the candidate, and interprets the law as requiring the highest degree of separation between candidates and outside spenders.[125] All of these states also have active regulatory agencies and provide detailed guidance about what constitutes coordination.[126]

The Brennan Center report also notes that federal coordination regulation is moderately strong and defines coordination as "substantial discussion" or greater involvement between the candidate and the spender, spending based on a candidate's suggestion, the involvement of a former employee of the candidates or a consultant who also works for the candidate within a certain time, and re-publication of the candidate's materials by the spender.[127] However, the Federal Elections Commission has notoriously failed to enforce coordination rules since the mid-2000s – rendering the regulations ineffective.[128]

ii. *Current Law and Hearing Testimony*

Currently, District law prohibits coordination, defined as: "(A) At the request or suggestion of a candidate or public official, a political committee affiliated with a candidate or public official, or an agent of a candidate or public official or of a political committee affiliated with the candidate or public official; or (B) With the material involvement of a candidate or public official, a political committee affiliated with a candidate or public official, or an agent of a candidate or public official or of a political committee affiliated with a candidate or public official."[129] Although coordination is prohibited, the prohibition is not as expansive or clear as it should be, and it does not cover many real-world scenarios where candidates fundraise for PACs or provide PACs with former senior staff from their campaigns. It is also not clear from existing provisions that coordinated spending must be treated as a contribution for purposes of contribution limits and disclosure. OCF's enforcement of the existing coordination restrictions, to the Committee's knowledge, is limited.

Witnesses at the Committee's hearing expressed dissatisfaction with the District's coordination laws, particularly relating to independent expenditures. Several testified that the

---

[121] *Id.* at 16-17.
[122] *Id.*
[123] *Id.*
[124] *Id.*
[125] *Id.*
[126] *Id.* The Committee strongly encourages the new Campaign Finance Board to issue guidance relating to coordination.
[127] *Id.* at 19.
[128] *Id.*
[129] D.C. Official Code § 1-1161.01(10B).

District must ensure that independent expenditures are truly independent from candidates, public officials, and their campaigns by enhancing anti-coordination laws. Witnesses from the Brennan Center and the Campaign Legal Center recommended that the Committee create a rebuttable presumption of coordination if certain factors are present, similar to the Attorney General's proposal.[130] Witnesses also testified in support of clarifying that any expenditure coordinated with a candidate's campaign should be treated as a contribution, and requiring outside spending groups like IECs to certify that they have not coordinated with a campaign.

iii. *Committee Print*

The Committee Print includes several targeted, commonsense provisions to prevent coordination between candidates and PACs and IECs. First, it strengthens and clarifies the definition of "coordination" by including actions made at the *explicit or implicit direction*, request, or suggestion of a public official, affiliated committee, or their agent, or *in cooperation, consultation, or concert with*, or with the other material involvement[131] of a public official, their affiliated committee, or their agent.

The Committee Print further builds on the best practices and language of other jurisdictions, in addition to the proposals in Councilmember Silverman's and Attorney General Racine's bills, by establishing a rebuttable presumption of coordination in certain circumstances. Coordination is presumed if any of the following factors exist:

1) The contribution or expenditure is made based on information that the public official, political committee affiliated with the public official, or an agent of a public official or a political committee affiliated with a public official, provided to the particular person making the contribution or expenditure about its needs or plans, including information about campaign messaging or planned expenditures;[132]

2) The person making the contribution or expenditure retains the professional services of a person who also provides the public official, political committee affiliated with the public official, or an agent of a public official or a political committee affiliated with a public official, with professional services related to campaign or fundraising strategy;[133]

---

[130] *See*, Council of the District of Columbia Committee on the Judiciary and Public Safety, *Public Hearing on B22-0107, the "Campaign Finance Reform Amendment Act of 2017"* (July 10, 2017) (oral testimony of Adav Noti, Senior Director of Trial Litigation & Strategy, Campaign Legal Center), available at http://lims.dccouncil.us/Download/37360/B22-0107-HearingRecord1.pdf.

[131] The Committee Print makes minor amendments to the definition of "material involvement": "with respect to a contribution or expenditure, any communication to or from a public official, political committee affiliated with public official, or any agent of a public official or political committee affiliated with a public official, related to the contribution or expenditure. Material involvement includes devising or helping to devise the strategy, content, means of dissemination, or timing of the contribution or expenditure, or making any express or implied solicitation of the contribution or expenditure."

[132] An example of this scenario would be a situation in which the candidate's campaign manager informs an outside spender that the campaign needs polling services, and the outside spender makes expenditures for polling services to benefit the candidate based on this information.

[133] An example of this scenario would be a situation in which a person makes an expenditure for the services of a political strategist to support a candidate, and the candidate has used the same political strategist.

3) The person making the contribution or expenditure is a political committee, political action committee, or independent expenditure committee that was established or is or was staffed in a leadership role by an individual who: (1) works or previously worked in a senior position or in an advisory capacity on the public official's staff or on the public official's principal campaign committee; or (2) who is a member of the public official's immediate family;[134] or

4) The contribution or expenditure is made for the purpose of financing, directly or indirectly, the election of a candidate or a political committee affiliated with that candidate, and that candidate has fundraised for the person making the expenditure.[135]

5. Enhancing Disclosure Requirements and Training

According to a November 2015 poll by the Associated Press, 87 percent of respondents believe that disclosure would be at least somewhat effective at reducing the influence of money in politics.[136] However, increasing transparency is not easy. In the post-*Citizens United* era, sources of large amounts of money in federal and local politics remain anonymous through independent spending, which is constitutionally unlimited.[137] Specifically, there has been a surge in outside spending on election advertising that is technically independent of candidates.[138] Anonymous political advertising poses a significant risk of misleading voters and unfairly attacking candidates. Such advertisements are effective because viewers have little information to evaluate besides the content of the ad. However, there is evidence that when viewers learn more about an ad's sponsor, they engage in more critical thinking about the ad's message.[139]

Because independent spending is not subject to contribution limits, it is critical for jurisdictions to require extensive disclosure and rigorously enforce these requirements. Strong disclosure rules for outside spenders and enforcement are insufficient to stem the tide of unlimited, unaccountable spending – but smart rules and consequences that incentivize compliance can make a measurable difference in providing voters with information vital to their decision-making and in holding elected officials accountable.[140]

---

[134] An example of this scenario would be a situation in which a candidate's former campaign manager now runs an independent expenditure committee making expenditures to benefit the candidate.

[135] An example of this scenario would be a situation in which an organization for which a candidate has fundraised makes expenditures to support that candidate.

[136] Julie Bykowitz and Emily Swanson, *AP-NORC Poll: Americans wary of hidden political donors*, AP NEWS (Dec. 8, 2015), available at https://apnews.com/22d0cc36cd884e89b63e1230024e1cfb.

[137] *See, e.g., SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010).

[138] *Supra*, note 120.

[139] *Id.* at 20.

[140] Although the Supreme Court has overturned or limited other campaign finance laws, the Court has consistently upheld disclosure measures. *See McCutcheon v. FEC*, 134 S. Ct. 1434, 1460 (2014) (plurality opinion); *see also, Doe v. Reed*, 561 U.S. 186 (2010); *Citizens United*, 558 U.S. at 370–71.

i. *Other Jurisdictions*

Many jurisdictions, including the District, require disclosure of donors only by registered political committees or in other limited circumstances that minimally sophisticated donors and spenders can easily dodge. This approach fails to capture how outside spending actually occurs in the post-*Citizens United* era. States have taken different approaches to addressing the reality of how independent spenders are influencing elections, particularly through advertising – a few of which are discussed below.

In 2014, California enacted disclosure reforms relating to political advertising by independent spenders.[141] The law requires a spender to disclose enough contributions to account for all of its political advertising in a given cycle, even if the spender claims that not all the contributors donated specifically for those ads.[142] California also requires outside spenders to list the top two donors who gave at least $50,000.[143] These changes recognize that groups may give or spend substantial amounts of money for election advertising, even if that is not their primary purpose, and that the public should know as much about these groups' political funding as about political committees' funding.[144]

In Connecticut, political advertisers are required to identify their top five contributors in either a text or spoken disclaimer. If any of the donors listed in that disclaimer are recipients of "covered transfers", the underlying donors making those transfers must be listed in the spender's filings.[145] Washington State takes a similar approach, requiring independent spenders to list their top five contributors.[146]

Federal law requires advertisers to disclose spending and funding for any ad that names a candidate during election season — 60 days before a general election and 30 days before a primary election.[147] Delaware and Montana have embraced the federal model and require outside spenders to disclose funding sources for issue ads that are actually electioneering communications as well as express advocacy. Delaware requires disclosure of all donors to groups that buy these types of ads.[148] Montana's law is more limited and requires disclosure only of donors who earmark their contributions for the electioneering ad in question.[149]

New York City passed a disclosure law that goes one level deeper: instead of only disclosing contributors to an outside spending group, spenders must reveal groups that gave money to those contributors, above a certain threshold.[150] While the law leaves open the possibility that people and groups could pass their money through an extra level of a shell entity, it makes evasion

---

[141] 2014 Cal. Stat. ch. 16 § 6. *See also,* Chisun Lee et al., *supra* note 120, at 24.
[142] *Id.*
[143] *Id.*
[144] *Id.*
[145] CONN. GEN. STAT. § 9-621(j)(1). *See,* Chisun Lee et al., *supra* note 120, at 25.
[146] WASH. REV. CODE § 42.17A.320.
[147] 11 C.F.R. § 104.20.
[148] 15 DEL. C. § 8002. Delaware's Election Disclosure Act was upheld by the Third Circuit Court of Appeals, and the Supreme Court denied a petition for certiorari. *Del. Strong Families v. Denn*, 136 S. Ct. 2376 (2016).
[149] MCA 13-35-225. The law is known as the "Montana Disclose Act".
[150] *Supra* note 120, at 26.

of disclosure laws more difficult. In addition, 2014 amendments to the New York City Charter require that entities contributing to organizations engaging in outside spending disclose "at least one individual who exercises control over the activities of such contributing entity controlling party."[151]

ii. *Committee Print*

The Committee Print contains several provisions that would strengthen disclosure requirements for independent expenditures in the District. First, the Committee Print requires a certification for an independent expenditure that, to the best of the spender's knowledge, the expenditure wasn't controlled by or coordinated with any public official, political committee affiliated with a public official, or their agents. For non-individuals making independent expenditures, they also must include the names and addresses of each "person" whose total contributions to the reporting "person" is greater than $200 and the date and amount of each contribution, as well as the principal place of business if the "person" is not an individual. These provisions attempt to address what is often called "dark money" on the federal level – those often-untraceable and unlimited expenditures.

Furthermore, the Print enhances disclosure requirements for "political advertising"[152] – including advertising paid for by candidates, political committees, and PACs, as well as by independent spenders. The Print requires that a candidate, political committee, or PAC identify its political advertising by the words "paid for by", followed by the name and address of the candidate or committee and the name of the committee's treasurer. For independent spenders, the Print requires that an independent expenditure committee or person making an independent expenditure identify its political advertising by the words "paid for by", followed by the name and address of the independent expenditure committee and name of the committee's treasurer, or the name and address of the person making the independent expenditure. Advertisements paid for by independent spenders must also include the words "Top Five Contributors", followed by a list of the five largest contributors to the independent expenditure committee or person making the independent expenditure, if applicable, during the twelve-month period before the date of the political advertising. Such disclosure about independent spenders provides viewers access to information that is vital to their ability to evaluate the message contained in the advertisement – and is modeled after disclosure laws in Connecticut and Washington.

The Print also enhances reporting for receipts and expenditures by political committees, PACs, and IECs in several ways. It simplifies the schedule for reporting contributions and expenditures, and the amended reporting dates are as follows: for political committees – in an election year for the office sought, reporting dates are the 10th days of February, April, July, September, and December (it previously was January 31 and the 10th days of March, June, August, October, and December), and eight days before the primary, general, or special election; in a non-

[151] 2014 N.Y. City Law No. 041.

[152] In the Print, the term "political advertising" includes newspaper and magazine advertising; posters; circulars and mailers; billboards; handbills; bumper stickers; sample ballots; initiative, referendum, or recall petitions; radio or television advertisements; paid telephone calls and text messaging; digital media advertisements; and other printed and digital materials produced by the persons in this subsection and intended to support or oppose: (1) a candidate or group of candidates; or (2) any initiative, referendum, or recall measure.

election year, the 10th days of February, July, September, and December (it was January and July 31 (annually) and the 10th day of December (only in the year before the election)). For PACs and IEC, reports are required by the 10th days of February, April, July, September, and December, and 8 days before a primary, general, or special election. The Print further requires that all reports published by the CFB be available online and specifies that reports of contributions and expenditures must be made sortable to allow for filtering by street address, city, state, and zip code. The Print further enhances disclosures for any bundling by lowering the threshold amount for disclosure from $10,000 to $5,000.

Lastly, the Print improves training requirements by requiring that all Mayoral-appointed board and commission members be trained by BEGA on the District's ethics laws within ninety days after their commencement of service. It also requires that the mandatory training of candidates and their treasurers include training on the Fair Elections Program and requirements pertaining to business contributors, their affiliated entities, and covered contractors. The CFB must post on its website the names of required attendees who have not completed the training.

6. Keeping Pace with Evolving Case Law

The Committee Print make two changes to keep pace with evolving case law. The first is to repeal the District's aggregate contribution limit. Currently, outdated District law limits a person's total contributions per election to $8,500 to *all* candidates. Such aggregate contribution limits have been held by the Supreme Court to be unconstitutional.[153]

Second, the Print establishes "non-contribution accounts" for PACs. These non-contribution accounts are segregated from other PAC funds and may only be used to make independent expenditures (not to *contribute* to political committees). This change arises from the United States District Court for the District of Columbia's decision in *Carey et al. v. FEC*.[154] In that case, the FEC entered into a consent judgment with the plaintiffs agreeing that it would not enforce the contribution limitations with respect to funds received for independent expenditures so long as the PAC maintained a separate bank account for this activity. The Court held that the FEC may require a PAC to have two bank accounts to prevent the cross-over of funds – one account subject to contribution limitations and source prohibitions and one not subject to these regulations – and that was a narrowly tailored means of limiting a PAC's First Amendment rights. Consistent with this decision, the Committee Print establishes separate non-contribution accounts for PACs to deposit and withdraw funds raised in unlimited amounts from individuals,

[153] *McCutcheon v. FEC*, 572 U.S. 185 (2014). The plaintiff in this case was a businessperson and Republican Party activist. As of September 2012, he had given $33,088 to sixteen federal candidates and more than $25,000 in non-candidate contributions during the 2011-2012 cycle. He intended to donate to an additional twelve federal candidates, bringing his contribution total over the federal aggregate limit on federal candidates. He filed suit against the FEC, alleging that the contribution limits were unconstitutional. The Supreme Court overturned the limits on aggregate federal campaign contributions because such limits failed the test of preventing corruption. *Id.*

[154] *Carey v. FEC*, 791 F. Supp. 2d 121, 2011 U.S. Dist. LEXIS 62464. In this case, the plaintiff sought permission to operate a "Super-Duper" PAC, combining an independent expenditure-only PAC and PAC that makes direct contributions to candidates as a single entity for FEC purposes. The plaintiff sought a declaratory judgment that enforcing limits on contributions would violate the First Amendment by prohibiting the raising of funds for independent expenditure purposes and direct contributions to candidates by the same PAC in two segregated bank accounts. The FEC argued that the PAC must create two different PACs to keep the finances from direct candidate support and independent expenditures separate. *Id.*

corporations, labor organizations, or other political committees. These accounts will not be used to make contributions, whether direct or in-kind, or coordinated expenditures (which are considered contributions under District law). This prevents funds restricted by contribution limits from being co-mingled with funds not subject to such limitations.

7. Miscellaneous Provisions

Lastly, the Committee Print contains several miscellaneous provisions. First, the Print amends the Prohibition on Government Employee Engagement in Political Activity Act of 2010, effective March 31, 2011 (D.C. Law 18-355; D.C. Official Code § 1-1171.02) (the "local Hatch Act"), by clarifying that government employees may only use annual or unpaid leave when they are designed by a public official to knowingly solicit, accept, or receive a political contribution. The current law merely states that an employee must use "leave" but does not specify what type of leave is acceptable to use. The Print also provides that designated employees can only perform that function for a principal campaign committee, exploratory committee, or a transition committee. Designated employees must be listed on BEGA's website. These amendments have their genesis in Attorney General Racine's bill. Second, the Committee Print permits the Attorney General to create a transition committee – under current law, only the Mayor and Chairman may have such committees. This was likely an oversight when the Council passed legislation to create an independent, elected Attorney General.

III. Conclusion

With the Committee Print, the Committee makes sweeping and transformational reforms to the District's campaign finance laws. These reforms range from bolstering agency oversight to curbing real or perceived pay-to-play politics, and from addressing improper coordination between campaigns and independent spenders to enhancing disclosure requirements and training. Throughout the Committee Print's reforms, there are constant themes: combatting the actuality or perception of corruption and undue influence of money in our elections, and restoring public trust through increased transparency and disclosure.

Although the entirety of the bill will be subject to appropriations, the Committee intends to identify the necessary funds in the Fiscal Year 2020 budget. The Committee has also delayed the applicability date of the bill's pay-to-play provisions until November 4, 2020 – the day after the next General Election – to allow the implementing authorities sufficient time to plan for the program's rollout, particularly with the launch of the Fair Elections Program only weeks away from the date of this report.

LEGISLATIVE HISTORY

February 7, 2017	B22-0107 is introduced by Chairperson Allen and Councilmembers Bonds and Grosso.
February 7, 2017	B22-0107 is referred to the Committee on the Judiciary and Public Safety.

February 10, 2017	Notice of Intent to Act on B22-0107 is published in the *District of Columbia Register.*
May 12, 2017	Notice of Public Hearing on B22-0107 is published in the *District of Columbia Register.*
July 10, 2017	Public Hearing on B22-0107 is held by the Committee on the Judiciary and Public Safety.
October 18, 2018	Consideration and vote on B22-0107 by the Committee on the Judiciary and Public Safety.

POSITION OF THE EXECUTIVE

The Executive did not take a position on B22-0107 or any of the other campaign finance reform bills pending in this Committee, nor did the Office of Contracting and Procurement respond to requests for comment on the draft Committee Print. The Office of Campaign Finance and the Office of the Attorney General testified in support, as summarized below.

ADVISORY NEIGHBORHOOD COMMISSION COMMENTS

The Committee did not receive comments from Advisory Neighborhood Commissions.

WITNESS LIST AND HEARING RECORD

The Committee on the Judiciary and Public Safety held a hearing on B22-0107, the "Campaign Finance Reform Amendment Act of 2018", on July 10, 2017. A video recording of the hearing can be viewed at https://entertainment.dc.gov/page/demand-2017. The following witnesses testified before the Committee or submitted written testimony:

Public Witnesses

Dorothy Brazill – Executive Director, D.C. Watch

Ms. Brazill testified that she has been the head of D.C. Watch for more than twenty years and has followed efforts to reform campaign finance law since 2012. She has filed numerous complaints and has argued cases as a non-lawyer before the D.C. Court of Appeals to get campaign finance laws enforced. She testified that there needs to be improved administration and enforcement at the Office of Campaign Finance, where there are currently long delays, lost files, and minor fines imposed in cases of flagrant violation of campaign laws. Moreover, she believes that that "whatever regime that is put in place" needs watchdogs. She concluded that any change made to campaign finance law must be simple, readable, and understandable. Also, regarding B22-0032, the "Clean Elections Amendment Act of 2017", Ms. Brizill says that there are already laws that limit the amount that be raised annually – instead, what is needed is an Office of Campaign Finance that is vigilant in monitoring existing law.

Dan Wedderburn – Member, D.C. for Democracy (Presented by Zach Schalk)

Mr. Wedderburn testified in strong support of the bills. He stated that the bills could have a major impact on the corrupting influence of pay-to-play politics. He noted that, currently, large corporations and wealthy donors dominate our political system, increasing inequality in the District and corrupting democracy. He listed several features of the bills, which D.C. for Democracy supports, including: prohibiting lobbyists from bundling contributions, requiring disclosure for independent expenditures, allowing only individuals to contribute to PACs, allowing only individuals to contribute to constituent service funds, and limiting the ability of campaign contributors to engage in District contracts, grants, or tax abatements valued at $100,000 or more for two years. He welcomed the bills as reforms at a time when public cynicism is high, and there is a perception that elected officials are under the control of corporations and developers.

Linda Beebe – President, League of Women Voters of the District of Columbia

Ms. Beebe testified in support of the bills and strong campaign finance reforms. She stated that the League of Women Voters' major concerns are disclosure and stopping Super PACs (IECs in the District). She testified that the Clean Elections Amendment Act and the Campaign Finance Reform Amendment Act seem to be straightforward improvements that could be enacted without much debate. She testified that the other two bills go to the heart of the problem of big money in politics and seek to eliminate the District's reputation for pay-to-play politics. She believes that we need to hold corporations, their executives, and family members accountable for contributions.

Ms. Beebe then discussed the differences she sees between the two pay-to-play bills—the limits they set on contributions. She noted that we want to make it possible for all candidates to have access to equitable funding, and it is a reality that campaigns cost money. She said that her organization often encounters voters who think their votes will not count—that only big money donors count. She thinks the bills will go a long way toward restoring public faith and trust in our democracy.

Eric Jones – Associate Director of Government Affairs, ABC Metro Washington

Mr. Jones, a self-identified registered lobbyist, testified in opposition to the bills. He stated that the bills give the public the impression that there is an issue with pay-to-play culture in District politics, which he believes is untrue and unfair. He called the bills "an assault on the corporate citizens of our population" and believes the bills will put corporations at a competitive disadvantage in the District. He stated that the bills prevent corporations doing business with the District from participating in the political process and take away the voice of that constituency. He gave examples of legislation where he believes there was no undue influence by corporations or lobbyists despite their campaign contributions, for example, the passage of the Universal Paid Leave Act and the increase of the minimum wage. He ended by making recommendations, including full transparency rather than prohibitions, proper disclosure of contributions, and he opposed what he called "tedious" compliance requirements.

Roderic Woodson – Partner, Holland & Knight LLP

Mr. Woodson testified that members of the business community are "citizens" in that they pay taxes and follow the law just like everyone else—and therefore should be able to influence their government. He stated that business entities have the right to engage in public affairs, and there is nothing inherently corrupting about monetary contributions from businesses to political campaigns. He noted that complex compliance requirements and numerous filings increase the likelihood of inadvertent errors. He said that B22-0008 is "death by a thousand cuts" to any business interest, business entity, or business person by implementing "an intricate web" of regulatory prescriptions, prohibitions, and reporting requirements. He stated that B22-0032 is "constitutionally dubious" because it prohibits any contribution to a political committee by anyone other than an individual. He called B22-0008 "almost retaliatory" in its approach because *any* contribution to an elected official, candidate, political committee, political party, or PAC is grounds for disqualification from doing business with the District. He believes that the assertion that a contribution to a political party or PAC would cause preferential consideration is "extremely remote" and "overkill". He recommended that the period to retire debt in B22-0107 should be extended from six months to nine months.

Erika Wadlington – Director of Public Policy & Programs, D.C. Chamber of Commerce

Ms. Wadlington testified in opposition to B22-0008, B22-0032, and B22-0051. She identified areas where the D.C. Chamber of Commerce can support the Council's effort to foster more transparency in the election process. She recommended that the Council focus on disclosure as an essential public accountability mechanism to increase transparency and boost public confidence in elections. She also recommended that the Council focus on "major contracts"—contracts over $1 million—to address concerns of undue influence. She expressed concern that the Council would consider prohibiting an individual from voicing their support through campaign contributions solely because they have chosen a profession in business. She believes that corporations and businesses should be able to participate in the democratic process without impacting their ability to partner with the District.

David Julyan – Counsel, Washington Parking Association

Mr. Julyan, a self-identified registered lobbyist, testified in a written statement that there are two fundamental issues to address in the realm of campaign finance: (1) reasonable and appropriate disclosure, and (2) a level playing field. He believes that public disclosure of contributions and contracts would hold officials accountable and should be a part of the contracting process. He stated that BEGA requires semi-annually itemizing every contact with a public official, which is "confusingly uninformative and inconsistently reported." He believes that lobbyists should be required to disclose key information about who they are communicating with and about what. He stated that many lobbyists fall within BEGA's definition of lobbying and do not register and whose compensated efforts remain undisclosed, which he thinks is wrong. He also believes that elected public officials should have to make disclosures about contacts with lobbyists. He furthermore testified that there is a line between participation in the political process and pay-to-play—a line he has had no trouble seeing over the past forty-five years. He thinks the proposals in the bills limiting contributions from family members of a corporate officer defy reasonableness, fairness, and perhaps the Constitution.

Brent Ferguson – Counsel, Brennan Center for Justice

Mr. Ferguson testified in support of B22-0008, B22-0032, and B22-0051. He stated that well-targeted campaign finance laws can ameliorate the risk of corruption and the public's feeling that their voices are not heard. He stated that other jurisdictions' laws demonstrate the value of requiring meaningful disclosure of spending, preventing coordination between campaigns and outside groups, and limiting campaign contributions by government contractors.

Mr. Ferguson testified that the Brennan Center strongly supports updates to disclosure laws in response to the rise of independent expenditures—that such disclosures cam discourage corruption and better inform voters about candidates. He cited studies from states and cities across the country that have implemented well-crafted disclosure laws and successfully reduced undisclosed spending. He recommended two amendments: (1) require outside spending groups to report the original source of major contributions, and (2) require sponsors of advertising to list the original source for their top five contributors.

Mr. Ferguson also testified that adopting rules regarding the distinction between coordinated and independent expenditures has become critical to maintaining integrity in elections and preventing candidates from circumventing contribution limits. He stated that provisions in the proposed bills would improve coordination laws, and he suggested two additions to B22-0008 to strengthen it: (1) create a "cooling off" period such that consultants who work for a campaign may not immediately thereafter work for an IEC, and (2) add a provision that any expenditure for a communication that reproduces a covered campaign advertisement will be treated as coordinated.

Mr. Ferguson further testified that certain types of contributors pose a special risk of corruption because they have much to gain from influencing government decision-making. He stated that the D.C. Circuit upheld a federal ban on contributions by government contractors, concluding that such a restriction reduces the risk of corruption. He discussed B22-0008 and B22-0051, stating that it is important to cover prospective contractors and grantees. He recommended that the Council make certain that each bill prevents contractors from contributing shortly after receiving a contract, as well.

Deborah Shore – Chair, Ward 3 Democratic Committee

Ms. Shore testified in support of the bills and stated that the Ward 3 Democratic Committee unanimously passed a resolution on campaign finance reform with a focus on democratizing the election process and encouraging fair governance. She testified that the Committee specifically supports prohibiting entities that make political contributions from bidding on or engaging in District government contracts. They also support allowing only individuals to contribute to political committees and constituent service programs, as well as prohibiting the coordination of independent expenditure committees with political campaigns. She stated that strengthening the District's campaign finance laws will significantly reduce the corrupting influence of money in politics and transform our political culture for the better.

Adav Noti – Senior Director of Trial Litigation & Strategy, Campaign Legal Center

Mr. Noti testified in support of the bills, which he believes will make important improvements to the District's campaign finance laws. He discussed the constitutionality of pay-to-play laws, stating that courts have approved reasonable restrictions on campaign-related spending of entities doing business with the government. In fact, at least seventeen states, as well as numerous municipalities (*e.g.*, Los Angeles and New York City), have limits or prohibitions on such activities. He noted that the D.C. Circuit also upheld such restrictions, recognizing two significant government interests sufficient to justify the ban: preventing the actuality and appearance of corruption and preventing interference with merit-based public administration to ensure that contracting depends upon meritorious performance rather than political service. He added that the Second Circuit has also upheld similar laws. He stated that the Council has a significant role in the oversight of the contract process, which can create the appearance of, if not the opportunity for, favoritism towards political supporters. Thus, he supports the implementation of restrictions on pay-to-play.

Mr. Noti also testified about coordination. He stated that as a result of the *Citizens United* decision, the amount of unlimited outside spending has increased, and the legal lines separating independent and coordinated spending have become critically important. Without effective regulation of coordinated spending, contribution limits are meaningless. He explained that coordinated expenditures may constitutionally be limited. He stated that the anti-coordination provisions in the Attorney General's bill would help maintain a meaningful line between groups making independent expenditures and candidates. The presumptions laid out in the bill are reasonable, targeted responses to the kinds of coordination we have seen in the District.

Aquene Freechild – Co-Director, Democracy is for the People Campaign, Public Citizen

Ms. Freechild testified in support of the bills. She noted that no single bill can rebuild the public's trust after scandals such as the one involving Fort Myer and the Mayor's office and the illegal contributions accepted by both the Mayor's campaign and Councilmember Todd's campaign. She stated that taking serious and concerted action on pay-to-play issues is the best possible way to show progress on campaign finance reform. She also highlighted the importance of limiting the contributions of family members of contractors and encourages the Committee to ensure the provision is included in the final bill. She pointed to a report by Public Citizen on the amount of money coming from corporations, their executives, and family members in the early primaries, which showed that 40% of contributions came from construction and real estate corporations. She used Fort Myer as an example: in the 2016 primary, Fort Myer Corporation LLC gave $3,000 to various candidates. However, if executives, family members and family trusts are included, that number increases to over $20,000 in contributions. The company's two top executives, their immediate family members, and their family trusts gave an additional $17,700 to Council campaigns. This illustrates that direct corporate giving can be a small fraction of total giving associated with the corporation. She emphasized that a pay-to-play bill must include executives, officers, family members, as well as disallow the use of family trusts.

Sarah Livingston – Public Witness

Ms. Livingston testified that after conducting her own research, she thinks that B22-0008 "comes the closest to effectively addressing the concerns citizens have that there is a 'pay-to-play' culture in DC's political life." She noted that the bill addresses the kinds of things that businesses can do under the law and both the "perception" of wrongdoing and the "loopholes" in the current law. Regarding B22-0107, she supports the provision of the bill which requires candidates to get permission to use someone's likeness in campaign literature. She also thinks wrapping up campaigns and its debt by the next campaign is more realistic. Moreover, she would also like to know if a candidate-elect's campaign is in order prior to being sworn in. Ms. Livingston also recommends that OCF report on violations, complaints, audits, and investigations. She concluded her testimony by recommending that the reforms be thorough and comprehensive.

Government Witnesses

Cecily Collier-Montgomery – Director of the Office of Campaign Finance

Director Collier-Montgomery testified that OCF, established within BOE, is charged with the administration of the District's campaign finance laws and enhancing resident confidence in the District's election process. She presented two testimonies, one covering B22-0032, B22-0107 and B22-0008, and the other on B22-0051. Regarding the former, Director Collier-Montgomery stated that the bills "...will complement the existing campaign finance laws and operate in sync to more effectively prevent the evasion of the disclosure requirements, and the contribution limits and prohibitions...". She noted that District residents will be better informed due to the proposed amendments presented in the bills. She testified that the proposed amendments will increase the enforcement and audit responsibilities of OCF and require upgrades to the OCF E-Filing and Disclosure System in order to capture the new reporting requirements and contribution limitations.

Regarding B22-0032, the "Clean Elections Amendment Act of 2017", she noted that the amendment would further define the term "contribution" by including "coordinated expenditure", revise the certification statements of IECs, and include certifications that the committee is not controlled by or coordinated with other entities. She also noted that reporting will require modifications that eliminate labor, business, and other sub-categories.

The Director also testified that the proposals in B22-0107, the "Campaign Finance Reform Amendment Act of 2017", "will not affect the continuing requirement of a committee pursuant to D.C. Code Section § 1-1163.09(10) to report its debts and obligations after the election until the debts and obligations are extinguished". However, the bill will require consent for individuals to be featured in campaign literature and advertisements. Referring to B22-0008, the "Campaign Finance Transparency and Accountability Amendment Act of 2017", she testified that the bill "will increase the certification requirements of political action committees and independent expenditure committees to address the prohibition against the receipt of contributions solicited by 'covered campaigns'...". Further, the proposals in the bill will require enhancements to the OCF E-Filing system. She testified that the fiscal impacts of B22-0032, B22-0107, and B22-0008 will require a "rough estimate" of $67,320 to cover costs of the OCF E-Filing System.

Regarding B22-0051, the "Comprehensive Campaign Finance Reform Amendment Act of 2017", the Director testified that in OCF's view, the restrictions on family members of "covered

contractors" and its officers, directors and principals could "extend beyond OCF's ability to effectively enforce the legislation." She noted that OCF currently does not have the capacity to identify and monitor immediate relatives, and enforcement of this provision would require "the creation of a database by government contracting officers of 'covered contractors' that provides information regarding all affected parties". She testified that enactment of this legislation would require OCF to coordinate oversight efforts with District agencies to facilitate the coordination of inter-agency data flow.

Karl Racine – Attorney General for the District of Columbia

Attorney General Racine testified that his office "has a statutory mandate to uphold the public interest" and, in accordance with this mandate, introduced B22-0008. He also noted that he supports the goals and objectives of the accompanying measures, B22-0032, B22-0051 and B22-0107. Mr. Racine's testimony referenced the OAG and Georgetown University forum, "Campaign Finance in the District of Columbia", where the comments and questions, "made clear that there is an overwhelming perception among District residents that big money exerts an undue influence on government decision-makers – to the detriment of residents' needs and concerns." He also referenced the report, "Findings and Recommendations of Mary M. Cheh on the Department of General Services Contracting and Personnel Management." Mr. Racine testified that this report highlighted pay-to-play issues in the District and led Councilmember Cheh to suggest that the Council should "consider amending campaign finance laws to regulate campaign contribution by contractor".

Mr. Racine testified that B22-0008 ends the practice and perception of pay-to-play politics by preventing donors from engaging in large business contracts, grants, or receiving tax breaks with the District for a period of two years. It makes political donations transparent by ensuring all organizations making independent expenditures above a certain threshold will have to identify anyone who has donated more than $200 towards expenditures. The proposed legislation also creates a "bright line" between candidates and PACs to ensure that when someone works with a campaign, they cannot claim to be an independent contributor, and they will be subject to the same regulations.

Lastly, Mr. Racine testified that B22-0008 will amend current law concerning PACs to bring the District into compliance with First Amendment case law. The bill would also ensure that members of District boards and commissions appointed by District government officials receive the same rigorous ethics training as District employees.

IMPACT ON EXISTING LAW

B22-0107 amends the District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Official Code § 1-129.21(4)), to make conforming changes; amends the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1–523.01(e)), to make conforming changes and add the Campaign Finance Board to the list of boards and commissions for which nominations submitted to the Council for approval are deemed disapproved after ninety days; amends the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-

139; D.C. Official Code § 1-601.01 *et seq.*), to add the Campaign Finance Board to the list of independent agencies under the act, provide that the personnel authority for employees of the Campaign Finance Board is the Campaign Finance Board, compensate the Campaign Finance Board members, and require each member of a board or commission appointed by the Mayor to certify that he or she has undergone ethics training within ninety days of the beginning of their service.

The bill also amends the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.01 *et seq.*), to make technical and conforming changes, strike the requirement that Elections Board members have experience in government ethics, provide that each member of the Campaign Finance Board shall receive compensation, separate the Campaign Finance Board from the Elections Board, and allow the Elections Board to provide and publish advisory opinions on its own initiative or upon receiving a request from certain persons.

The bill amends the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*), to add and amend definitions, modify the contents of the Director of Government Ethics' quarterly reports to include contributions reported by registrants, prohibit registrants from bundling to certain political committees, establish the Campaign Finance Board and set forth its composition, powers, and duties, provide a procedure for investigating alleged campaign finance violations, require additional information to be submitted by campaign finance filers, require the preservation of paper and electronic copies of reports and statements by the Director of Campaign Finance, expand the training provided to candidates and committees, allow the Campaign Finance Board to provide and publish advisory opinions on its own initiative or upon receiving a request from certain persons, require committees to file additional information in their statements of organization, amend the schedule for filing reports of receipts and expenditures and require additional information to be filed, require PACs and IECs to disclose information about bundled contributions, lower the threshold for reporting by all committees about bundled contributions, require campaign funds to be used within a certain period to retire the debts of certain types of political committees, limit the amount of personal loans to a campaign that can be repaid, prohibit certain public officials from fundraising to retire their campaign debts within a certain period, establish and regulate non-contribution accounts, require non-coordination certifications, enhance reporting requirements for independent expenditures, expand political advertising disclosures, lower contribution limits for inaugural and legal defense committees, authorize the Attorney General to maintain a transition committee, align the contribution limitation for transition committees for Council Chairman and Attorney General with other limitations, narrow the authorized purposes for legal defense committees and enhance the information such committees report, repeal the aggregate contribution limitations made by a contributor in a single election to candidates and political committees, provide that limitations on contributions apply to political action committees in nonelection years, and restrict the ability of government contractors to contribute to certain public officials during certain periods.

B22-0107 amends the Prohibition on Government Employee Engagement in Political Activity Act of 2010, effective March 31, 2011 (D.C. Law 18-355; D.C. Official Code § 1-1171.02), to clarify that government employees may only use annual or unpaid leave when they

are designated by a public official to knowingly solicit, accept, or receive contributions, require that employees only perform these functions for certain types of committees, and expand the information reported and published about designations. The bill amends the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 *et seq.*), to require summaries of proposed contracts that come before the Council for approval to contain additional information, and require websites established by the Chief Procurement Officer to include certain government contracting and campaign finance information. Lastly, the bill amends section 47-4701 of the District of Columbia Official Code to require a tax abatement financial analysis to include certain government contracting and campaign finance information.

FISCAL IMPACT

The Committee adopts the attached fiscal impact statement of the Chief Financial Officer.

SECTION-BY-SECTION ANALYSIS

Section 1 States the short title.

Section 2 Amends the District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Official Code § 1-129.21(4)), to make a conforming change.

Section 3 Amends the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1–523.01(e)), to make conforming changes and add the Campaign Finance Board to the list of boards and commissions for which nominations submitted to the Council for approval are deemed disapproved after ninety days.

Section 4 Amends the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), to add the Campaign Finance Board to the list of independent agencies under the act, provide that the personnel authority for employees of the Campaign Finance Board is the Board; compensate the Campaign Finance Board members; and require each member of a board or commission appointed by the Mayor to certify that he or she has undergone ethics training within ninety days of the beginning of their service.

Section 5 Amends the District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.01 *et seq.*), to make technical and conforming changes; strike the requirement that Elections Board members have experience in government ethics; provide that each member of the Campaign Finance Board shall receive compensation; separate the Campaign Finance Board from the Elections Board; and allow the Elections Board to provide and publish advisory opinions on its own initiative or upon receiving a request from certain persons.

Section 6 Amends the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*), as follows:

(a) Amends the table of contents to make technical changes and include the Campaign Finance Board.

(b) Adds definitions for "Campaign Finance Board", "contracting authority", "covered contractor", "non-contribution account", "PPRA", "principal", "prohibited period", and "prohibited recipient"; and amends the definitions of "candidate", "compensation", "contribution", "coordinate" or "coordination", "Director of Campaign Finance", "election", "executive agency", "expenditure", "exploratory committee", "inaugural committee", "independent expenditure", "independent expenditure committee", "legal defense committee", "material involvement", "political action committee", "political committee", "public official", and "transition committee".

(c) Amends the contents of the Director of Government Ethics' quarterly reports to include all political contributions, including bundled contributions, reported by registrants.

(d) Makes technical changes.

(e) Prohibits registrants from bundling contributions to principal campaign committees, exploratory committees, inaugural committees, transition committees, and legal defense committees (but not PACs or IECs).

(f) Establishes the Campaign Finance Board and sets forth its powers and duties.

(g) Establishes the Campaign Finance Board as an independent agency, and provides its composition, the terms and qualifications for its members, and removal for good cause.

(h) Makes technical and conforming changes; and provides the Director of Campaign Finance with the authority to investigate alleged campaign finance violations and describes the procedures.

(i) Requires information submitted by campaign finance filers to be sortable by street address, city, state, or zip code of the contributor or payee; requires the Director of Campaign Finance to preserve the paper and electronic copies of reports and statements for 10 years after they are received, and to compile and maintain a current list of all reports and statements on file for each candidate; moves the due date for the Director's required biennial report describing receipts and expenditures from January 31 to December 31 and expands upon its contents; requires content on the Fair Elections

Program, business contributors and affiliated entities, and covered contractors to be included in training programs conducted by the Director; and requires the Director to post the names of those who have not completed the training on the agency's website.

(j) Requires the Campaign Finance Board to provide advisory opinions on its own initiative or upon receiving a request from public officials, political committees, PACs, IECs, officials of political parties, any person required to or who reasonably anticipates being required to submit filings to the Campaign Finance Board, and any other person under the Board's jurisdiction; and provides the procedure for publishing the opinions.

(k) Requires committees to file additional information in their statements of organization.

(l) Makes conforming changes.

(m) Amends the schedule for filing reports of receipts and expenditures; requires additional information to be included in the reports, such as the employer of the contributor and, for a report filed by a PAC that has a non-contribution account, any receipts allocated to that account; requires PACs and IECs to disclose information about bundled contributions, and political committees, PACs, and IECs will have to report such contributions in excess of $5,000.

(n) Makes technical changes.

(o) Requires that, within six months following the election, any surplus, residual, or unexpended campaign funds can be used to retire the proper debts of the political committee that received the funds, after which the candidate is personally liable for any remaining debts; provides that loans made by a candidate to support his or her campaign may only be repaid up to the amount of $25,000; and prohibits public officials from fundraising to retire their debts (now personal liabilities) after six months following the election.

(p) Makes technical changes.

(q) Makes technical changes.

(r) Establishes non-contribution accounts and requires PACs making independent expenditures to establish such an account, inform the Campaign Finance Board, and segregate and identify its funds accordingly.

(s) Requires every PAC and IEC to certify that the contributions it has received and the expenditures it has made have not been controlled by or coordinated

with any public official, political committee affiliated with a public official, or agent of such persons; and expands the reporting requirements for any person other than a political committee, PAC, or IEC, that makes one or more independent expenditures in an aggregate amount of $50 or more within a calendar year to include a non-coordination certification, information about the person's principal place of business, its contributors, and when they contributed and how much.

(t) Requires IECs and other independent spenders to identify their political advertising with "paid by" information and a list of their "top five contributors" during the twelve-month period before the date of the advertising; exempts items that are too small to accommodate the identifications; and expands the definition of "political advertising" to include radio and television ads, paid telephone calls and text messaging, and digital media ads.

(u) Makes conforming changes to candidates' personal liability for financial obligations incurred by a committee.

(v) Makes technical changes.

(w) Makes technical changes.

(x) Makes technical changes.

(y) Makes technical changes.

(z) Lowers the aggregate limit for contributions to inaugural committees by persons or business contributors from $10,000 to $2,000.

(aa) Requires an inaugural committee to terminate no later than six months after the beginning of the term of the new Mayor; allows an inaugural committee to continue to accept contributions to retire its debts for six months following the beginning of the term of the new Mayor, after which the Mayor is personally liable for any remaining debt; and prohibits the Mayor from fundraising to retire the debts of the committee after six months following the beginning of the new term (for which he or she would now be personally liable).

(bb) Raises the contribution limit for transition committees for Council Chairman and Attorney General from $1,000 to $1,500.

(cc) Allows the Attorney General to have a transition committee; requires that transition committees terminate no later than six months after the beginning of the term of the new Mayor, Council Chairman, or Attorney General; allows a transition committee to continue to accept contributions to retire

its debts for six months following the beginning of the term of the new Mayor, Council Chairman, or Attorney General, after which the respective official is personally liable for any remaining debt; and prohibits the Mayor, Council Chairman, and Attorney General from fundraising to retire the debts of the committee after six months following the beginning of the new term (for which he or she would now be personally liable).

(dd) Allows public officials to maintain legal defense committees only for the purpose of defraying attorney's fees and other related costs for the official's legal defense to one or more civil, criminal, or administrative proceedings that (now) arise directly out of the conduct of a campaign, the election process, or the performance of the public official's governmental activities and duties.

(ee) Requires legal defense committees to list the employer of a contributor; makes technical and conforming changes; lowers the aggregate contribution limit for legal defense committees from $10,000 to $2,000.

(ff) Makes technical changes.

(gg) Makes conforming changes.

(hh) Makes technical and conforming changes.

(ii) Makes technical and conforming changes.

(jj) Makes technical and conforming changes.

(kk) Makes technical and conforming changes.

(ll) Makes technical and conforming changes.

(mm) Makes technical and conforming changes.

(nn) Makes technical and conforming changes.

(oo) Repeals the unconstitutional aggregate limit for contributions made by a contributor in a single election to candidates and political committees; clarifies that contributions designated for a non-contribution account of a PAC are not subject to contribution limits; and mandates that limitations on contributions under this section apply to PACs in nonelection years.

(pp) Prohibits agencies and instrumentalities from entering into or approving contracts with covered contractors if the covered contractor has contributed to a prohibited recipient during the prohibited period; prohibits covered contractors from so contributing; establishes the notification, identification,

education, and enforcement duties of contracting authorities and the Director of Campaign Finance in implementing the bill's pay-to-play provisions; and establishes penalties for covered contractors that violate the prohibitions.

(qq) Makes technical and conforming changes.

(rr) Makes technical changes.

(ss) Makes technical changes.

(tt) Makes technical changes.

Section 7 Amends the Prohibition on Government Employee Engagement in Political Activity Act of 2010, effective March 31, 2011 (D.C. Law 18-355; D.C. Official Code § 1-1171.02), to clarify that government employees may only use annual or unpaid leave when they are designed by a public official to knowingly solicit, accept, or receive a political contribution; mandate that employees only perform these functions for a principal campaign committee, exploratory committee, or transition committee; and require that designated employees report information about themselves, their designor, and the name of the committee for which they have been designated; and requires BEGA to publish this information on its website.

Section 8 Amends the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 *et seq.*), as follows:

(a) Requires proposed contracts, including proposed changes to the scope or amount of a contract, that come before the Council to contain a summary including the names of the contractor's principals, a description of any other contracts the proposed contractor is currently seeking or holds with the District, a certification that the proposed contractor has been determined not to be in violation of the bill's pay-to-play restrictions, and a certification from the proposed contractor that it currently is and will not be in violation of those restrictions.

(b) Requires the website established by the Chief Procurement Officer with links to each District government website containing active solicitations for goods or services in an amount in excess of $100,000, to include information about the prohibited recipients or likely prohibited recipients for each contract, and include the relevant pay-to-play provisions; and requires the database containing information regarding each contract executed by the District for an amount equal to or greater than $100,000 to contain a notation identifying whether the vendor is a covered contractor and to which prohibited recipients the vendor is prohibited from making campaign contributions and during what prohibited period.

Section 9 Amends section 47-4701 of the District of Columbia Official Code to require a Tax Abatement Financial Analysis ("TAFA") to include, if the estimated aggregate value of the exemption or abatement is $250,000 or more, a list of the contributions made, from the date of the bill's introduction to the date of the TAFA, by the grantee and the principals of the grantee to the Mayor, any Councilmember, any candidate for Mayor or Councilmember, any political committee affiliated with the Mayor, Councilmembers, or candidates for these offices, and any constituent-service program affiliated with the Mayor, Councilmembers, or candidates for these offices; and requires a TAFA to include a list provided by the grantee of any contracts that the grantee is seeking or holds with the District government.

Section 10 Contains the applicability clause.

Section 11 Contains the fiscal impact statement.

Section 12 Contains the effective date.

COMMITTEE ACTION

On October 18, 2018, the Committee on the Judiciary and Public Safety held an Additional Meeting to consider and vote on B22-0107, the "Campaign Finance Reform Amendment Act of 2018". The meeting was called to order at 3:40 p.m. Chairperson Charles Allen recognized a quorum consisting of himself and Councilmembers Anita Bonds, Mary M. Cheh, Vincent Gray, and David Grosso.

Chairperson Allen first provided opening remarks, describing the Committee Print and its origins. He then turned to Councilmember Cheh, who expressed her support for the reforms in the Print, including its pay-to-play provisions. She noted her work on this issue, including her report on contracting in the Department of General Services. She offered an amendment to "maintain the status quo with respect to constituent services funds". Councilmember Cheh stated that the Committee Print's proposed limitations on the funds did not "necessarily [represent] the right [approach...], and in some instances, [...] may blur the line between what is an allowable or non-allowable use of the funds, and in so doing, may have the potential of ensnaring Members who attempt the use the funds in a permissive and legitimate way". She then moved an oral amendment to (1) restore the ability of Councilmembers to transfer excess campaign contributions from their political committees to their constituent-service programs; (2) strike language in the Print that required expenditures from a constituent-service program to be for activities, services, or programs which "directly" provide services to District residents; and (3) strike the limitations in the Print restricting constituent-service funds from being used on year-long or season admissions to theatrical, sporting, or cultural events. Chairperson Allen clarified which sections of the Print were implicated by Councilmember Cheh's oral amendment and confirmed the Print's pay-to-play restrictions on contributions by covered contractors to constituent-service programs were not included in the amendment.

Councilmember Grosso spoke in opposition to the amendment, stating that he did not find it appropriate to raise money while in office, which a constituent-service program allows Councilmembers to do. He argued that the programs should be banned outright, and the Committee Print's proposed restrictions were laudable. Councilmember Gray expressed his support for Councilmember Cheh's amendment, stating that his ward has serious need for financial support for various services, including utility assistance. Councilmember Bonds also expressed her support for the amendment, stating that constituent-service programs allow her to support community events. The amendment passed 3-2, with Chairperson Allen and Councilmember Grosso voting no.

On the bill as amended, Chairperson Allen then turned to his colleagues for comments. Councilmember Gray thanked Chairperson Allen and his staff for their hard work and meeting with him in advance of the markup. He noted that the bill contains provisions from his campaign finance reform legislation pending in Committee and from similar legislation he introduced in 2013 as Mayor. Councilmember Grosso expressed his support for the bill, including the Print's Office of Campaign Finance-related provisions. He supported the Committee Report's efforts to highlight instances of the perception of impropriety, arguing that the Print's loan limitations, debt retirement provisions, disclosure requirements, and pay-to-play restrictions would work to this end. He referenced the other election-based reforms still to be undertaken in this area. Councilmember Cheh remarked that the Committee Print represents a "huge effort...to move our elections system forward in a very meaningful way".

Chairperson Allen, without objection, moved the Committee Report and Print for B22-0107 en bloc with leave for staff to make technical, editorial, and conforming changes. The Committee voted 5-0 to approve the Committee Report and Print with the Members voting as follows:

YES: Chairperson Allen and Councilmembers Bonds, Cheh, Gray, and Grosso

NO: None

PRESENT: None

ABSENT: None

LIST OF ATTACHMENTS

(A) B22-0107, as introduced
(B) B22-0008, as introduced (also referred to this Committee)
(C) B22-0032, as introduced (also referred to this Committee)
(D) B22-0051, as introduced (also referred to this Committee)
(E) B22-0047, as introduced (referred to the Committee of the Whole)
(F) Notice of Public Hearing, as published in the *District of Columbia Register*
(G) Agenda and Witness List
(H) Witness Testimony
(I) Fiscal Impact Statement

(J) Legal Sufficiency Determination
(K) Comparative Print of B22-0107
(L) Committee Print of B22-0107

ATTACHMENT A

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington D.C. 20004

Memorandum

To : Members of the Council

From : Nyasha Smith, Secretary to the Council

Date : February 07, 2017

Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Legislative Meeting on Tuesday, February 7, 2017. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Campaign Finance Reform Amendment Act of 2017", B22-0107

INTRODUCED BY: Councilmembers Allen, Grosso, and Bonds

The Chairman is referring this legislation to the Committee on Judiciary and Public Safety.

Attachment

cc: General Counsel
Budget Director
Legislative Services

Councilmember Anita Bonds

Councilmember Charles Allen

Councilmember David Grosso

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to require principal campaign committees to retire all debts within 6 months after an election, and to require committees and candidates to obtain consent before using an individual's likeness in campaign literature, advertisements, websites, or social media.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Campaign Finance Reform Amendment Act of 2017".

Sec. 2. The Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*), is amended as follows:

(a) Section 310a(2) (D.C. Official Code § 1-1163.10a(2) is amended by striking the phrase "Used to retire" and inserting the phrase "Within 6 months following the election, used to retire" in its place.

(b) Section 315 (D.C. Official Code § 1-1163.15) is amended as follows:

(1) The section heading is amended by striking the phrase "Identification of campaign" and inserting the phrase "Campaign" in its place.

(2) A new subsection (d) is added to read as follows:

"(d) Each committee and candidate shall obtain consent prior to using the likeness of an individual who is not a candidate for office in any campaign literature, advertisements, websites, or social media.".

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

ATTACHMENT B

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington D.C. 20004

Memorandum

To : Members of the Council

From : Nyasha Smith, Secretary to the Council

Date : January 09, 2017

Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Office of the Secretary on Thursday, January 5, 2017. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Campaign Finance Transparency and Accountability Amendment Act of 2017", B22-0008

INTRODUCED BY: Chairman Mendelson at the request of the Attorney General

The Chairman is referring this legislation to the Committee on Judiciary and Public Safety.

Attachment

cc: General Counsel
Budget Director
Legislative Services

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General

ATTORNEY GENERAL
KARL A. RACINE

January 5, 2017

The Honorable Phil Mendelson
Chairman, Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 504
Washington, DC 20004

Dear Chairman Mendelson:

I am writing to transmit the "Campaign Finance Transparency and Accountability Amendment Act of 2017." The bill ensures that independent expenditures are truly independent by requiring candidates, elected officials, affiliated committees, and their agents to wall themselves off from entities that make independent expenditures, including Political Action Committees (PACs) and independent expenditure committees. It does so by borrowing from both previously introduced legislation and from federal regulations. Candidates, officials, committees, and agents would not be allowed to encourage anyone to donate to an independent expenditure committee or a PAC. PACs and independent expenditure committees in turn would have to certify that, to the best of their knowledge, after due diligence, they have not received any donations that were coordinated with any candidate, official, political committee, or political party. Moreover, any expenditure coordinated with a candidate, campaign, or agent would be treated as a contribution to that candidate or campaign.

The bill also ensures that the public knows who is behind independent expenditures by requiring extensive disclosure. The bill requires individuals and entities making such expenditures to disclose not only how much they spend, but also to identify any affiliates or donors associated with that spending. These requirements will prevent individuals and organizations from hiding behind "dark money" groups to circumvent sunlight provisions.

The bill closes a significant PAC loophole. Under current regulations, restrictions on giving to a PAC do not apply during any calendar year in which the committee is not supporting candidates in either a primary or general election. Consequently, a PAC could collect unlimited donations in non-election years, even for political contributions, although of course it could not give above the maximum to any one candidate. The bill repeals this exemption.

The bill builds on prior campaign finance proposals to sever the connection between contributions and significant business dealings with the District. It focuses on what it calls "doing business with the District": large contracts, large grants, large tax abatements, and agreements to acquire, sell, or lease land or a building – the type of arrangements where the concern of pay-to-play corruption appears highest. Anyone who contributed to a candidate or elected official who could influence or award any of these types of business, to any political committee affiliated with that candidate or official, and to certain individuals or organizations closely tied to such a candidate or official, would be ineligible to do high-value business with the District. This ineligibility would last for two years following the election for which the contribution was made. Anyone seeking to "do business with the District" would need to certify that he or she was in compliance with District pay-to-play law, and the District would be forbidden from "doing business with" anyone who was ineligible to "do business with the District."

Moreover, current law allows the Mayor and each Councilmember to each designate one employee who may solicit and receive political contributions while on leave. The bill would narrow this provision by limiting the type of leave that a designated employee can use for this purpose (annual or unpaid leave only) and specifying that an employee may only solicit and receive political contributions for a principal campaign committee or an exploratory committee.

Finally, the bill would require board and commission members to receive ethics training from the Board of Ethics and Government Accountability.

If you have any questions, your staff may contact my Legislative Director, James A. Pittman, on (202) 724-6517.

Sincerely,

Karl A. Racine
Attorney General for the District of Columbia

Chairman Phil Mendelson
at the request of the Attorney General

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Phil Mendelson, at the request of the Attorney General, introduced the following bill, which was referred to the Committee on _____

To require political action committees to direct their contributions through regulated accounts that are designated for that purpose; clarify that expenditures coordinated with a candidate or campaign are considered contributions to that candidate or campaign; require political action committees and independent expenditure committees to certify that the donations they have received have not been coordinated with any candidate or campaign; enhance disclosure of independent expenditures; prohibit candidates, public officials, and their affiliated political committees from soliciting donations to any independent expenditure committee or political action committee; close the loophole allowing unlimited contributions to a political action committee in a year when the committee is not supporting candidates; disqualify individuals and corporations from large contracts or other significant business with the District if they have recently contributed to certain covered recipients; regulate Hatch Act employee designations by requiring them to be for a principal campaign or exploratory committee, requiring employees to use either annual or unpaid leave, requiring designated employees to disclose their designation to the Board of Ethics and Government Accountability, and requiring the Board to post designated-employee information on its website; require members of boards and commissions to obtain ethics training from the Board at the beginning of their service.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this Act may be cited as the "Campaign Finance Transparency and Accountability Amendment Act of 2017".

TITLE I – CAMPAIGN FINANCE

Sec. 101. The Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*) is amended as follows:

(a) Section 101 (D.C. Official Code § 1-1161.01) is amended as follows:

(1) Paragraph (4A) is amended to read as follows:

"(4A) "Business contributor" means a business entity that makes a contribution, or makes a donation to a political action committee or an independent expenditure committee, along with all of that entity's affiliated entities.".

(2) A new paragraph (9A) is added to read as follows:

"(9A) "Contribution Account" means an account of a political action committee that is segregated from other accounts of the political action committee and is used for the sole purpose of making contributions to candidates, political parties, political committees, and Contribution Accounts of other political action committees.".

(3) Paragraph (10) is amended by inserting a new subparagraph (C) to read as follows:

"(C) The term "contribution" includes any expenditure that is coordinated with:

"(I) A candidate or public official;

"(II) A political committee affiliated with a candidate or public official; or

"(III) An agent of any person described in sub-subparagraph (I) or (II).".

(4) Paragraph (10B) is amended to read as follows:

"(10B)(A) "Coordinate" or "coordination" means to take an action, including making an expenditure:

"(I) At the request, suggestion, or direction of a covered campaign; or

"(II) In cooperation, consultation, or concert with, or with other material involvement of, a covered campaign.

"(B) There is a rebuttable presumption that an expenditure by a person is coordinated with a covered campaign if:

"(I) The expenditure is based on information that the covered campaign provided to the person about the covered campaign's needs or plans, including information about campaign messaging or planned expenditures;

"(II) The person making the expenditure retains the services of a person who provides the covered campaign with professional services related to campaign or fundraising strategy; or

"(III) The person making the expenditure is a committee that was established, run, or staffed in a leadership role by an individual who previously worked in a senior position or advisory capacity on the candidate's or public official's staff within the current campaign, who is an immediate family member of the candidate or the public official, or who has been a candidate within the prior two elections.".

(5) A new paragraph (10C) is added to read as follows:

"(10C) "Covered campaign" means:

"(A) A candidate or public official;

"(B) A political committee affiliated with a candidate or public official; or

"(C) An agent of any person described in subparagraph (A) or (B).".

(b) Section 313 (D.C. Official Code § 1-1163.13) is amended as follows:

(1) Subsection (a)(1) is amended to read as follows:

"(1) Every political action committee and every independent expenditure committee shall certify, in each report filed with the Director of Campaign Finance, that:

"(A) To the best of its knowledge, after due diligence, the expenditures it has made have not been controlled by or coordinated with any covered campaign; and

"(B) To the best of its knowledge, after due diligence, none of the contributions or donations it has received were solicited, as defined in section 333(j-1)(2), by any covered campaign.".

(2) Subsection (b) is amended to read as follows:

"(b) A business contributor to a political committee, political action committee, or independent expenditure committee shall:

"(1) Provide the committee with the identities of the contributor's affiliated entities that have also contributed to the committee; and

"(2) Comply with all requests from the Office of Campaign Finance to provide material information about its individual owners, the identity of affiliated entities, the individual owners of affiliated entities, the contributions or expenditures made by such entities, and any other information that the Office of Campaign Finance reasonably requests in order to enforce this section.

(3) New subsections (b-1), (b-2), and (b-3) are added to read as follows:

"(b-1) Independent expenditure disclosures by individuals. Any individual who makes one or more independent expenditures in an aggregate amount of $50 or more within a calendar year shall file reports with the Director of Campaign Finance, that include:

"(1) The individual's name and address;

"(2) The amount and object of the expenditures;

"(3) The names of any candidates, initiatives, referenda, or recalls in support of or opposition to which the expenditures are directed; and

"(4) A certification that the independent expenditures were not coordinated with any covered campaign.

"(b-2) Independent expenditure disclosures by covered organizations.

"(1) For the purpose of this subsection, the term "covered organization" means any person other than an individual, a political committee, a political action committee, or an independent expenditure committee.

"(2) A covered organization that makes one or more independent expenditures in an aggregate amount of $500 or more shall file reports with the Director of Campaign Finance that include:

"(A) The organization's name and principal place of business;

"(B) The amount and object of the expenditures;

"(C) The name of any candidate, initiative, referendum, or recall in support of which or opposition to which the expenditures are directed;

"(D) A certification that, to the best of the organization's knowledge after due diligence, the independent expenditures were not coordinated with any covered campaign;

"(E) A certification that, to the best of the organization's knowledge after due diligence, none of the donations that organization has received were solicited, as defined in section 313(j-1)(2), by any covered campaign; and

"(F) The name and principal place of business of any affiliated entity.

"(3) If the covered organization makes independent expenditures solely from a segregated bank account, and if funds donated to the organization are not allocated to that

account unless the donor requests in writing that they be allocated to the account, each of the organization's reports to the Office of Campaign Finance under paragraph (2) shall include:

"(A) The name and address of each person whose total donations to the account during the period covered by the report exceeded $200; and

"(B) The date and amount of each donation by that person to the account during the period covered by the report.

"(4) If the covered organization makes independent expenditures from sources other than the type of segregated bank account described in paragraph (3), each of the organization's reports to the Office of Campaign Finance under paragraph (2) shall include:

"(A) The name and address of each person whose total donations to the organization during the period covered by the report exceeded $200; and

"(B) The date and amount of each donation by that person to the organization during the period covered by the report.

"(5) Any disclosures required under paragraph (4) shall not include amounts received by the covered organization:

"(A) In commercial transactions in the ordinary course of business conducted by the covered organization; or

"(B) In the form of investments (other than investments by the principal shareholder in a limited liability corporation) in the covered organization.

"(6) Any disclosures required under paragraph (4) shall not include information about a donor's donation if:

"(A) That donor prohibited, in writing, the use of his or her payment to support or oppose any candidate, initiative, referendum, or recall; and

"(B) The covered organization agreed to follow the prohibition and deposited the donation in an account which is segregated from any account used to make independent expenditures.

"(b-3) Contribution Accounts for Political Action Committees.

"(1) A political action committee may not make contributions to a public official, a candidate, a political party, or a political committee unless and until it establishes a Contribution Account for the purposes of financing any contributions the political action committee will make to any public official, candidate, political party, political committee, or political action committee.

"(2) Within ten days of establishing the Contribution Account, a political action committee must notify the Board that it has established a Contribution Account.

"(3) A political action committee that establishes a Contribution Account must:

"(A) Ensure that the Contribution Account remains segregated from any accounts of the political action committee that are used to make independent expenditures;

"(B) Ensure that no donation or contribution to the political action committee is placed in the Contribution Account unless the contributor or donor has specifically designated the donation for that purpose;

"(C) Ensure that contributions are made only from the Contribution Account;

"(D) Inform prospective contributors and donors to the political action committee that a contribution or donation to the political action committee will not be placed in the Contribution Account unless the contributor or donor specifically designates the contribution or donation for that purpose; and

"(E) Ensure that the Contribution Account pays a proportional share of the political action committee's administrative expenses.

"(4) If a political action committee has established a Contribution Account, it must, in any reports it files pursuant to section 309 of this act, identify any receipts that have been allocated to that Contribution Account.".

(c) Section 333 (D.C. Official Code § 1-1163.33) is amended as follows:

(1) A new subsection (h-1) is added to read as follows:

"(h-1) A contribution to a political action committee shall not be considered a contribution for the purposes of the limitations specified in this section if that contribution is not designated for the political action committee's Contribution Account.".

(2) A new subsection (j-1) is added to read as follows:

"(j-1)(1) A covered campaign shall not solicit a contribution or donation to any covered organization as defined in section 313(b-2)(1), any independent expenditure committee, or any political action committee.

"(2) For the purposes of this subsection, a person solicits a contribution or donation to an independent expenditure committee or political action committee if that person asks, requests, or recommends, explicitly or implicitly, that the other person make a contribution or donation to that independent expenditure committee or political action committee. This includes any oral or written communication that, construed as reasonably understood in the context in which it is made, contains a clear message asking, requesting, or recommending that another person make such a contribution or donation.".

Sec. 102. Title 3, subsection 3011.33 of the District of Columbia Municipal Regulations is repealed.

TITLE II – PREVENTING PAY-TO-PLAY IN BUSINESS DEALINGS WITH THE DISTRICT

Sec. 201. Definitions.

For purposes of this title, the term:

(1) "Business contributor" means the same as that term is defined in section 101(4A) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(4A)).

(2) "Candidate" means the same as that term is defined in section 101(6) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(6)).

(3) "Contracting authority" means:

(A) The Chief Procurement Officer as defined in section 104(11) of this act;

(B) Any subordinate agency, instrumentality, employee of the District government, independent agency, board, or commission, other than the District of Columbia courts and the District of Columbia Public Defender Service, that is exempted from Chapter 3A of this act pursuant to section 105(c) of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.05).

(C) Any subordinate agency, instrumentality, employee of the District government, independent agency, board, or commission authorized to conduct procurements under section 201 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.01).

(3) "Contribution" means the same as that term is defined in section 101(10) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(10)).

(4) "Contribution Account" means the same as that term is defined in section 101(9A) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(9A)).

(5) "Covered recipient" means:

(A) Any elected District official who is or could be involved in influencing or approving the award of a tax abatement, a contract valued at $100,000 or more, or an agreement for the acquisition, sale, or lease of any land or building;

(B) Any candidate for elective District office who is or could be involved in influencing or approving the award of a tax abatement, a contract valued at $100,000 or more, or an agreement for the acquisition, sale, or lease of any land or building;

(C) Any political committee affiliated with a District candidate or official described in subparagraphs (A) and (B).

(D) Any political party;

(E) Any political action committee Contribution Account, as defined in section 101(9A) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(9A)).

(F) Any constituent-service program or fund, or substantially similar entity, controlled, operated, or managed by:

"(i) Any elected District official who is or could be involved in influencing the award of a contract or grant; or

"(ii) Any person under the supervision, direction, or control of an elected District official who is or could be involved in influencing the award of a contract or grant.

(G) Any entity or organization:

(i) Which a candidate or public official described in subparagraphs (A) and (B), or a member of his or her immediate family, controls; or

(ii) In which a candidate or public official described in subparagraphs (A) and (B) has an ownership interest of 10 percent or more.

(6) "Election" means the same as that term is defined in section 101(15) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(15)).

(7) "Engage in business dealings with the District" means to:

(A) Receive a grant from the District that is valued at $100,000 or more;

(B) Receive a tax abatement from the District that is valued at $100,000 or more;

(C) Enter into an agreement with the District for the acquisition, sale, or lease of any land or building; or

(D) Enter into a contract with the District valued at $100,000 or more.

(8) "Immediate family" means the same as that term is defined in section 101(26) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics

Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(26)).

(9) "Person" means:

(A) An individual, partnership, committee, corporation, labor organization, and any other organization; or

(B) A business contributor.

(10) "Political action committee" means the same as that term is defined in section 101(43A) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(43A)).

(11) "Political committee" means the same as that term is defined in section 101(44) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(44)).

(12) "Political party" means the same as that term is defined in section 101(45) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(45)).

Sec. 202. Eligibility to engage in business dealings with the District.

(a) A person that makes a contribution or solicitation for contribution to a covered recipient, shall, for two years, be ineligible to engage in business dealings with the District.

(b) The two-year ineligibility described in subsection (a) shall begin on the date that the contribution or solicitation for contribution was made.

(c) Neither the District nor any contracting authority of the District shall do any of the following with a person that is ineligible to engage in business dealings with the District:

(1) Provide the person a grant valued at $100,000 or more;

(2) Provide the person a tax abatement that is valued at $100,000 or more;

(3) Enter into an agreement with the person for the acquisition, purchase, or sale of land; or

(4) Enter into a contract, valued at $100,000 or more, with the person.

(d) For the purposes of this section, a person solicits a contribution or donation to covered recipient if that person asks, requests, or recommends, explicitly or implicitly, that another person make a contribution or donation to that covered recipient. This includes any oral or written communication that, construed as reasonably understood in the context in which it is made, contains a clear message asking, requesting, or recommending that another person make such a contribution or donation.

Sec. 203. Sworn statement on eligibility to engage in business dealings with the District.

Before a person may engage in business dealings with the District, the person shall provide the District with a sworn statement, under penalty of perjury, that to the best of the person's knowledge, after due diligence, the person is in compliance with this title and therefore is eligible to engage in business dealings with the District.

TITLE III – POLITICAL ACTIVITY AND TRAINING

Sec. 301. Employee Political Activity

(a) Section 3(b) of the Prohibition on Government Employee Engagement in Political Activity Act of 2010, effective March 31, 2011 (D.C. Law 18-355; D.C. Official Code § 1-1171.02) is amended as follows:

(1) The lead-in language is amended by striking the phrase "while on leave" and inserting the phrase "while on annual or unpaid leave" in its place.

(2) A new paragraph (1-a) is added to read as follows:

"(1-a) The employee may only perform these functions for a principal campaign committee or an exploratory committee.".

(3) Paragraph (3) is amended to read as follows:

"(3)(A) Any designated employee shall report that designation to the Board on a paper or electronic form that the Board designates.

"(B) The form for each designated employee shall identify only the employee's name, the identity of the designor, and the identity of the principal campaign committee or exploratory committee for which the employee is soliciting, accepting, or receiving contributions.

"(C) The Board shall, on its website, identify each designated employee, and for each designated employee shall identify the employee's designor as well as the principal campaign committee or exploratory committee for which the employee is soliciting, accepting, or receiving contributions.

"(D) The report required by this paragraph shall be in addition to any disclosure required under section 224 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.24).".

(b) Section 1801(a-2) of the District of Columbia Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-618.01(a-2)) is amended by inserting a new paragraph (4) to read as follows:

"(4) No later than 90 days after commencement of service, each member of a board or commission shall certify that he or she has undergone ethics training developed by the District of Columbia Board of Ethics and Government Accountability. The required training may be provided electronically, in person, or both as considered appropriate by the Board of Ethics and Government Accountability.".

TITLE IV – FISCAL IMPACT AND EFFECTIVE DATE

Sec. 401. Fiscal impact statement.

The Council adopts the fiscal impact statement provided by the Chief Financial Officer as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 402. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL
KARL A. RACINE

Legal Counsel Division

MEMORANDUM

TO: James Pittman
Deputy Attorney General for
Legislative, Intergovernmental, and Community Engagement

FROM: Janet M. Robins
Deputy Attorney General
Legal Counsel Division

DATE: January 4, 2017

SUBJECT: Legal Sufficiency Review of Draft Bill, the "Campaign Finance Transparency and Accountability Amendment Act of 2017" (AL-15-798 B)

This is to Certify that this Office has reviewed the above-referenced bill and resolution and found them to be legally sufficient. If you have any questions about this certification, please do not hesitate to contact me at 724-5524.

Janet M. Robins

ATTACHMENT C

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington D.C. 20004

Memorandum

To : Members of the Council

From : Nyasha Smith, Secretary to the Council

Date : January 10, 2017

Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Legislative Meeting on Tuesday, January 10, 2017. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Clean Elections Amendment Act of 2017", B22-0032

INTRODUCED BY: Councilmembers Silverman, Allen, Grosso, Cheh, and Nadeau

The Chairman is referring this legislation to the Committee on Judiciary and Public Safety.

Attachment

cc: General Counsel
Budget Director
Legislative Services

Councilmember David Grosso

Councilmember Elissa Silverman

Councilmember Mary M. Cheh

Councilmember Charles Allen

Councilmember Brianne K. Nadeau

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to clarify when expenditure committees are genuinely independent of a candidate or officeholder and to allow only individuals to contribute to political committees and constituent-service programs.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Clean Elections Amendment Act 2017".

Sec. 2. The Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 1-1161.01) is amended as follows:

(1) Paragraph (10)(A) is amended by adding a new sub-subparagraph (iv) to read as follows:

"(iv) Except as provided in subparagraph (B) of this paragraph, an expenditure that is made by a person controlled by or that is coordinated with a candidate or political committee is considered a contribution to that candidate or political committee."

(2) Paragraph (10A) is amended by striking "financial management policies of an entity" and inserting the phrase "financial management policies, fundraising activities, or expenditures of an entity or acting in a manner that creates the appearance thereof" in its place.

(3) Paragraph (33A) is amended by striking the phrase "expenditure" and inserting the phrase "expenditure or contribution" in its place.

(b) Section 313(a)(2) (D.C. Official Code § 1-1163.13(a)(2)) is amended by striking the phrase "has made no contributions" and inserting the phrase "is not controlled by, has not coordinated with, and has made no contributions" in its place.

(c) Section 333 (D.C. Official Code § 1-1163.33) is amended by adding a new subsection (l) to read as follows:

"(l) It shall be unlawful for any person other than an individual to make any contribution to a political committee or constituent-service program."

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

24, 1973 (87 Stat. 813: D.C. Official Code § 1-206.02(c)(1)) and publication in the District of Columbia Register.

ATTACHMENT D

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington D.C. 20004

Memorandum

To : Members of the Council

From : Nyasha Smith, Secretary to the Council

Date : January 25, 2017

Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Office of the Secretary on Tuesday, January 10, 2017. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Comprehensive Campaign Finance Reform Amendment Act of 2017", B22-0051

INTRODUCED BY: Councilmembers Gray and T. White

CO-SPONSORED BY: Councilmember R. White

The Chairman is referring this legislation to the Committee on Judiciary and Public Safety.

Attachment

cc: General Counsel
Budget Director
Legislative Services

Councilmember Trayon White

Councilmember Vincent C. Gray

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Board of Ethics and Government Accountability Establishment and comprehensive Ethics Reform Amendment Act of 2011 to add definitions for the terms "covered contractor", "prohibited recipient", and "related party"; to amend definitions for the terms "contribution", "expenditure", and "political committee"; to prohibit registered lobbyists from bundling contributions; to establish campaign restrictions for covered contractors during prohibited periods prior to an election; to prohibit contributions in excess of $25 in the form of a money order; to require disclosures from those who make substantial independent expenditures; to give covered contractors an opportunity to cure violations prior to the commencement of an enforcement action; and to provide a separate penalty provision for covered contractor violations.

BE IT ENACTED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Comprehensive Campaign Finance Reform Amendment Act of 2017".

Sec. 2. The Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.)* is amended as follows:

(a) Section 101 (D.C. Official Code § 1-1161.01) is amended as follows:

(1) A new paragraph (10C) is added to read as follows:

"(10C) "Covered Contractor" means any individual or sole proprietor, business, corporation, firm, partnership or association seeking or holding a contract to provide

goods or services to the District of Columbia, or seeking or holding a grant from the District of Columbia.".

(2) A new paragraph (45A) is added to read as follows:

"(45A) "Prohibited recipient" means:

"(A) Any elected District official who is or could be involved in influencing the award of a contract or grant to a covered contractor.

"(B) Any candidate for elective District office who is or could be involved in influencing the award of a contract or grant to a covered contractor.

"(C) Any political committee affiliated with a District candidate or official described in subparagraphs (A) and (B) of this paragraph.

"(D) Any constituent-service program or fund, or substantially similar entity, controlled, operated, or managed by:

"(i) Any elected District official who is or could be involved in influencing the award of a contract or grant to a covered contractor; or

"(ii) Any person under the supervision, direction, or control of an elected District official who is or could be involved in influencing the award of a contract or grant to a covered contractor.

"(E) Any political party.

"(F) Any entity or organization:

"(i) Which a candidate or public official described in subparagraphs (A) and (B) of this paragraph, or a member of his or her immediate family, controls; or

"(ii) In which a candidate or public official described in subparagraphs (A) and (B) of this paragraph has an ownership interest of 10% or more.".

(3) A new paragraph (48A) is added to read as follows:

"(48A) "Related party," with respect to any entity (including a political committee or political action committee), means:

"(A) A person controlling, controlled by, or in common control with, the entity;

"(B) An officer or director of, or a person performing similar functions with respect to, a person described in subparagraph (A) of this paragraph; or

"(C) If the entity is an organization, an officer or director of, or a person performing similar functions with respect to, the organization.".

(b) Section 231 (D.C. Official Code § 1-1162.31) is amended to by adding a new subsection (h) to read as follows:

"(h)(1) The following persons shall not bundle contributions:

"(A) Any lobbyist required to register under Title II of this Act; or

"(B) Any person acting on behalf of a lobbyist required to register under Title II of this Act.

"(2) Paragraph (1) of this subsection shall not be construed to prohibit any person from bundling contributions to a political committee or political action committee organized for the principal purpose of supporting or opposing an initiative or referendum.".

(c) Section 309 (D.C. Official Code § 1-1163.09) is amended as follows:

(1) Subsection (f)(1) is amended by striking the number "$15,000" and inserting the number "$10,000" in its place.

(2) A new paragraph (g) is added to read as follows:

"(g) Prior to awarding any contract to procure goods or services with the District of Columbia, or seeking a grant with the District of Columbia, the District of Columbia or any of its purchasing agents or agencies or those of its independent authorities shall receive a sworn statement from the covered contractor made under penalty of perjury that to the best of the covered contractor's knowledge after due diligence, the covered contractor, any related parties, any immediate family members of the covered contractor, and any immediate family members of the officers or directors of the covered contractor are in compliance with section 334a. The covered contractor shall also assume a continuing duty to report any violations of section 334a of this Act that may occur during the negotiation for a contract or agreement and throughout the time period in which the prohibitions apply.".

(d) Section 313 (D.C. Official Code § 1-1163.13) is amended by adding a new subsection (e) to read as follows:

"(e) Any advertisement supporting or opposing a candidate, initiative, referendum, or recall that is disseminated to the public by a political committee, a political action committee, or any other person must disclose, in the advertisement, the identity of the advertisement's

sponsor.

(e) Section 333 (D.C. Official Code § 1-1163.33) is amended as follows:

(1) Subsection (e)(2) is amended to read as follows:

"(2) No person shall receive or make any contribution in the form of cash or a money order in an amount of $25 or more.".

(2) A new subsection (l) is added to read as follows:

"(l) For the purposes of determining applicable contribution limits pursuant to this section, contributions attributable to an entity shall include any contributions made by a related party.".

(f) A new section 334a is added to read as follows:

"334a. Covered contractor campaign restrictions.

"(a) Neither the District of Columbia nor any of its purchasing agents or agencies or those of its independent authorities shall enter into an agreement or otherwise contract to procure goods, services or equipment from or to sell property to any covered contractor if:

"(1) The covered contractor seeks or holds contracts or grants with the District with a cumulative value of $250,000 or more; and

"(2) The covered contractor or a related party has solicited or made any contribution or expenditure to a prohibited recipient between the following dates:

"(A) If the covered contractor's bids or proposals were unsuccessful, between the date on which the covered contractor knows that a solicitation will be issued, and termination of negotiations or notification by the District that the covered contractor's bids or proposals were unsuccessful;

"(B) If the covered contractor received a contract or grant, between the

date on which the contractor knows that a solicitation will be issued, and one year after final payment is made on the contract or grant.

"(b) No covered contractor who seeks or holds a grant or contract to procure goods services or equipment from or to sell property to the District of Columbia with a cumulative value of $250,000 or more shall solicit or make any contribution or expenditure to a prohibited recipient between the following dates:

"(1) If the covered contractor's bids or proposals are unsuccessful, the date on which the contractor knows that a solicitation will be issued, and the date on which negotiations are terminated or the covered contractor is notified by the District that the covered contractor's bids or proposals were unsuccessful;

"(2) If the covered contractor received the contracts or grants, between the date on which the contractor knows that a solicitation will be issued, and one year after final payment is made on the contracts or grants.

"(c)(1) The prohibition on contributions and expenditures in subsections (a) and (b) of this section shall apply to any related party, including trusts, limited liability corporations, general partners of such limited liability corporations, and political committees.

(2) If a covered contractor is a corporation the prohibition on contributions and expenditures in subsections (a) and (b) of this section shall also apply to any officer or director of the corporation, or to any principal who has a controlling interest in the corporation.

"(d) Immediate family members of a covered contractor, and of its officers, directors, and principals, may make campaign contributions to, and expenditures in support of, a prohibited recipient; provided that these contributions and expenditures do not exceed an

aggregate of $300 per person per election.

"(e) For the purpose of this section and section 335a, any payment of money in an amount greater than $500, or any payment of in-kind services valued at more than $500, to an organization controlled by a candidate or a member of the candidate's immediate family constitutes a contribution.

"(f) The restrictions in this section shall apply beginning on the date when the cumulative value of the grants or contracts held or sought by a covered contractor reaches or exceeds $250,000. If the cumulative value of the contracts or grants sought or held by a covered contractor reaches or exceeds $250,000, but subsequently falls below $250,000, the restrictions in this section shall cease to apply; provided, that a covered contractor may not make political contributions to a prohibited recipient until one year after the date on which the aggregate value of the contractor's contracts or grants falls below $250,000.

"(g) The value of a contract or grant sought or held by a covered contractor shall be determined by the total amount of payment to be made under the contract or grant, including the value of any option under a contract.".

(g) A new section 335a is added to read as follows:

"335a. Covered contractor penalties.

"(a) In addition to any penalties prescribed in section 335, a covered contractor that knowingly solicits or makes unlawful campaign contributions to, or expenditures in support of, a prohibited recipient in violation of this act shall be subject to a fine of up to 3 times the amount of the unlawful contribution or expenditure, and such violation shall be considered a breach of the terms of the contract or grant. At the discretion of the District, the existing contracts or grants of the covered contractor may be terminated and the covered contractor

may be disqualified from eligibility for future District contracts or grants for a period of 4 calendar years from the date of determination that a violation of this act has occurred.

"(b) If a covered contractor, a related party, or a family member of a covered contractor or of an officer or director of a covered contractor unknowingly solicited or made campaign contributions or expenditures in violation of section 334a, the covered contractor may cure the violation if, within 30 days after such violation, the covered contractor seeks and receives full reimbursement of the unlawful contribution or expenditure from the prohibited recipient or recipients. If the prohibited recipient or recipients are unable or unwilling to reimburse the full amount of the unlawful contribution or expenditure because it would cause an unreasonable financial hardship, the covered contractor will be considered in violation of section 334a, but the effort to seek a cure may be considered in the determination of penalties.

"(c)(1) In addition to any penalties prescribed in section 335, any prohibited recipient who knowingly solicits or accepts a campaign contribution or expenditure in violation of section 334a shall be subject to a fine up to 3 times the amount of the unlawful contribution or expenditure.

(2) If the prohibited recipient in violation of this act is a political committee affiliated with a candidate or public official, or an entity or organization controlled by a candidate or public official, the name of the candidate or public official shall be prominently displayed on the web page of the Office of Campaign Finance.".

Sec. 3. Fiscal impact statement

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.

The act shall take effect following approval by the Mayor (or in the event of veto by6 the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973, (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

ATTACHMENT E

COUNCIL OF THE DISTRICT OF COLUMBIA
1350 Pennsylvania Avenue, N.W.
Washington D.C. 20004

Memorandum

To : Members of the Council

From : Nyasha Smith, Secretary to the Council

Date : January 10, 2017

Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Legislative Meeting on Tuesday, January 10, 2017. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Government Contractor Pay-to-Play Prevention Amendment Act of 2017", B22-0047

INTRODUCED BY: Chairman Mendelson and Councilmembers R. White, Cheh, Silverman, Allen, Grosso, and Nadeau

CO-SPONSORED BY: Councilmember T. White

The Chairman is referring this legislation to the Committee of the Whole.

Attachment

cc: General Counsel
Budget Director
Legislative Services

Councilmember Charles Allen

Chairman Phil Mendelson.

Councilmember David Grosso

Councilmember Robert White

Councilmember Brianne Nadeau

Councilmember Mary Cheh

Councilmember Elissa Silverman

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Procurement Practices Reform Act of 2010 to prohibit District government contracts with businesses and individuals that have made contributions to District government elected officials for a period of time.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Government Contractor Pay-to-Play Prevention Amendment Act of 2017".

Sec. 2. The Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 *et seq.*), is amended as follows:

(a) A new section 303 is added to read as follows:

"Sec. 303. Prohibition on contracting with political contributors.

"Prior to awarding any contract to procure goods or services, a contracting officer shall obtain a sworn statement from the contractor, made under penalty of perjury, that, to the best of the contractor's knowledge, and after due diligence, the contractor is in compliance with section 952, and is therefore eligible to enter into a contract with the District.

(b) A new Title IX-A is added to read as follows:

"TITLE IX-A. ELIGIBILITY TO CONTRACT WITH THE DISTRICT.

"Sec. 951. Definitions.

"For purposes of this title, the term:

"(1) "Business contributor" has the same meaning as set forth in section 101(4A) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(4A)).

"(2) "Candidate" has the same meaning as set forth in section 101(6) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(6)).

"(3) "Contracting authority" means:

"(A) The Chief Procurement Officer as defined in section 104(11) of the Procurement Practices Reform Act of 2010 (D.C. Law 18-371; D.C. Official Code § 2-351.04(11));

"(B) Any subordinate agency, instrumentality, employee of the District government, independent agency, board, or commission, other than the District of Columbia

courts and the District of Columbia Public Defender Service, that is exempted from Chapter 3A of this act pursuant to section 105(c);

"(C) Any subordinate agency, instrumentality, employee of the District government, independent agency, board, or commission authorized to conduct procurements under section 201.

"(4) "Contribution" has the same meaning as set forth in section 101(10) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(10)).

"(5) "Covered recipient" means:

"(A) Any elected District official except for an Advisory Neighborhood Commissioner and members of the State Board of Education.

"(B) Any candidate for elective District office, except for an Advisory Neighborhood Commissioner and members of the State Board of Education.

"(C) Any political committee affiliated with a District candidate or official described in subparagraphs (A) and (B).

"(D) Any political action committee organized pursuant to Part B of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.07 et seq.);

"(E) Any constituent-service program or fund established pursuant to section 338 of the Board of Ethics and Government Accountability Establishment and

Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.38).

"(6) "Election" has the same meaning as set forth in section 101(15) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(15)).

"(7) "Immediate family" has the same meaning as set forth in section 101(26) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(26)).

"(8) "Person" has the same meaning as set forth in section 101(42) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(42)).

"(9) "Political action committee" has the same meaning as set forth in section 101(43A) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(43A)).

"(10) "Political committee" has the same meaning as set forth in section 101(44) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(44)).

"(11) "Political party" has the same meaning as set forth in section 101(45) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(45)).

"Sec. 952. Eligibility of contractor to enter into contract or agreement with the District.

"(a) Beginning on January 1, 2018, a person or business contributor that makes or solicits a contribution to a covered recipient shall be ineligible to enter into a contract for the provision of goods or services to the District valued at $100,000 or more during the time period provided in subsection (b) of this section. The District shall not enter into an agreement or otherwise contract with a person or business contributor that is ineligible pursuant to this subsection during the time period provided in subsection (b) of this section.

"(b)(1) For contributions to covered recipients described under section 951(5)(A), (B), or (C), the restriction on a person or business contributor, entering into a contract with the District under this section shall apply beginning on the date the contribution was made or solicited and continuing until one year following:

"(A) The date of the primary election if the District candidate or official does not appear on the general election ballot;

"(B) The date of the general election if the District candidate or official appears on the general election ballot, regardless of whether the contribution or solicitation was for the primary election or general election; or

"(C) If the contribution or solicitation was not for a particular election, the date the contribution was made or solicited."

"(2) For contributions to covered recipients described under section 951(5)(D), (E), (F) or (G), the restriction on a person or business contributor entering into a contract with the District under this section shall apply beginning on the date the contribution was made or solicited and continuing for 12 months following that date.

"(3) For purposes of this section, the term "date the contribution was made" shall be the date of the contribution as reported to the Office of Campaign Finance as required by section 309 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.09)

(c) Beginning on the effective date of the Contracting Pay-to-Play Prevention Amendment Act of 2017, the Mayor shall include a notice of this section, and its applicability as of January 1, 2019, with any materials provided to contractors or potential contractors in relation to any contract solicited pursuant to Title IV of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-354.01 *et seq.*)".

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

24, 1973, (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

ATTACHMENT F

Council of the District of Columbia
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY
NOTICE OF PUBLIC HEARING
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004

COUNCILMEMBER CHARLES ALLEN, CHAIRPERSON
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

ANNOUNCES A PUBLIC HEARING ON

BILL 22-0008, THE "CAMPAIGN FINANCE TRANSPARENCY AND ACCOUNTABILITY AMENDMENT ACT OF 2017"

BILL 22-0032, THE "CLEAN ELECTIONS AMENDMENT ACT OF 2017"

BILL 22-0051, THE "COMPREHENSIVE CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2017"

BILL 22-0107, THE "CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2017"

Monday, July 10, 2017, 9:30 a.m.
Room 500, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

On Monday, July 10, 2017, Councilmember Charles Allen, Chairperson of the Committee on the Judiciary and Public Safety, will hold a public hearing on Bill 22-0008, the "Campaign Finance Transparency and Accountability Amendment Act of 2017"; Bill 22-0032, the "Clean Elections Amendment Act of 2017"; Bill 22-0051, the "Comprehensive Campaign Finance Reform Amendment Act of 2017"; and Bill 22-0107, the "Campaign Finance Reform Amendment Act of 2017". The hearing will take place in Room 500 of the John A. Wilson Building, 1350 Pennsylvania Avenue, N.W., at 9:30 a.m.

The stated purpose of Bill 22-0008, the "Campaign Finance Transparency and Accountability Amendment Act of 2017", is to require political action committees to direct their contributions through regulated accounts that are designated for that purpose; clarify that expenditures coordinated with a candidate or campaign are considered contributions to that candidate or campaign; require political action committees and independent expenditure committees to certify that the donations they have received have not been coordinated with any candidate or campaign; enhance disclosure of independent expenditures; prohibit candidates, public officials, and their affiliated political committees from soliciting donations to any independent expenditure committee or political action committee; close the loophole allowing unlimited contributions to a political

action committee in a year when the committee is not supporting candidates; disqualify individuals and corporations from large contracts or other significant business with the District if they have recently contributed to certain covered recipients; regulate Hatch Act employee designations by requiring them to be for a principal campaign or exploratory committee, requiring employees to use either annual or unpaid leave, requiring designated employees to disclose their designation to the Board of Ethics and Government Accountability, and requiring the Board to post designated-employee information on its website; and require members of boards and commissions to obtain ethics training from the Board at the beginning of their service.

The stated purpose of Bill 22-0032, the "Clean Elections Amendment Act of 2017", is to amend the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to clarify when expenditure committees are genuinely independent of a candidate or officeholder and to allow only individuals to contribute to political committees and constituent service programs.

The stated purpose of Bill 22-0051, the "Comprehensive Campaign Finance Reform Amendment Act of 2017", is to amend the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to add definitions for the terms "covered contractor", "prohibited recipient", and "related party", to amend definitions for the terms "contribution", "expenditure", and "political committee", to prohibit registered lobbyists from bundling contributions, to establish campaign restrictions for covered contractors during prohibited periods prior to an election, to prohibit contributions in excess of $25 in the form of a money order, to require disclosures from those who make substantial independent expenditures, to give covered contractors an opportunity to cure violations prior to the commencement of an enforcement action, and to provide a separate penalty provision for covered contractor violations.

The stated purpose of Bill 22-0107, the "Campaign Finance Reform Amendment Act of 2017", is to amend the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to require principal campaign committees to retire all debts within six months after an election, and to require committees and candidates to obtain consent before using an individual's likeness in campaign literature, advertisements, websites, or social media.

The Committee invites the public to testify or to submit written testimony. Anyone wishing to testify at the hearing should contact the Committee via email at judiciary@dccouncil.us or at (202) 727-8275, and provide their name, telephone number, organizational affiliation, and title (if any), by **close of business Wednesday, July 5**. Representatives of organizations will be allowed a maximum of five minutes for oral testimony, and individuals will be allowed a maximum of three minutes. Witnesses are encouraged to bring **twenty single-sided copies** of their written testimony and, if possible, also submit a copy of their testimony electronically in advance to judiciary@dccouncil.us.

For witnesses who are unable to testify at the hearing, written statements will be made part of the official record. Copies of written statements should be submitted to the Committee at judiciary@dccouncil.us or to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania

Avenue, N.W., Suite 5, Washington, D.C. 20004. **The record will close at the end of the business day on July 24.**

ATTACHMENT G

Council of the District of Columbia
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY
AGENDA & WITNESS LIST
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004

COUNCILMEMBER CHARLES ALLEN, CHAIRPERSON
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

ANNOUNCES A PUBLIC HEARING ON

BILL 22-0008, THE "CAMPAIGN FINANCE TRANSPARENCY AND ACCOUNTABILITY AMENDMENT ACT OF 2017"

BILL 22-0032, THE "CLEAN ELECTIONS AMENDMENT ACT OF 2017"

BILL 22-0051, THE "COMPREHENSIVE CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2017"

BILL 22-0107, THE "CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2017"

Monday, July 10, 2017, 9:30 a.m.
Room 500, John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

AGENDA

I. **CALL TO ORDER**

II. **OPENING REMARKS**

III. **WITNESS TESTIMONY**

i. Public Witnesses

1. Dorothy Brazill, Executive Director, D.C. Watch
2. Gary Imhoff, D.C. Watch
3. Dan Wedderburn (read by Zach Schalk), Assistant Treasurer, DC for Democracy
4. Linda Beebe, President, League of Women Voters of the District of Columbia
5. Eric Jones, Associate Director of Government Affairs, ABC Metro Washington

6. Roderic L. Woodson, Partner, Holland & Knight LLP
7. Erika Wadlington, Director of Public Policy & Programs, DC Chamber of Commerce
8. David Julyan, Counsel, Washington Parking Association
9. Brent Ferguson, Counsel, Democracy Program, Brennan Center for Justice
10. Deborah Shore (read by Keshini Ladduwahetty), Chair, Ward 3 Democratic Committee
11. Adav Noti, Senior Director of Trial Litigation & Strategy, Campaign Legal Center
12. Delvone Michael, Senior Political Strategist, National Working Families Party
13. Aquene Freechild, Co-Director, Democracy is for People Campaign, Public Citizen

ii. Government Witnesses

1. Cecily Collier-Montgomery, Director, Office of Campaign Finance
2. Karl Racine, Attorney General of the District of Columbia

IV. ADJOURNMENT

ATTACHMENT H

DC FOR DEMOCRACY

TESTIMONY OF DAN WEDDERBURN
BEFORE THE DC COUNCIL COMMITTEE ON JUDICIARY & PUBLIC SAFETY

RE: CAMPAIGN FINANCE REFORM BILLS B22-0008, B22-0032, B22-0107 & B22-0051

JULY 10, 2017

Mr. Chairman, and members, I am Dan Wedderburn, testifying for DC for Democracy (DC4D) as a member of its Steering Committee. With over 600 members, we have repeatedly pushed for major campaign and ethics reform in DC.

DC for Democracy strongly supports the Bills being considered today. If enacted, they can have a major impact on the corrupting influence of the pay-to-play culture that exists. Large corporations and wealthy donors, including many not residing here, dominate our political system. They contribute well over half of the total contributions made to candidates for City Council and Mayor. Meanwhile small donors, mostly middle and low income households have little influence. The result is DC's ever-increasing inequality that ranks among the highest in the nation. The notion of Democracy, which Webster's clearly defines as a government that represents the people, does not really exist.

Some important features of these Bills DC for Democracy supports include:

1. Any business, individual or association that contributes to candidates for political office would not be eligible to seek or engage in DC contracts, grants or tax abatements valued at $100,000 or more, for two years, effective for the 2018 campaign. Require the same for agreements to acquire, sell or lease land or a building.
2. Allow individuals only to contribute to Constituent Services Funds that allow incumbents to receive $40,000 a year that is spent mostly for their re-election not for helping needy people with emergency assistance as intended. Currently the same corporations that contribute to campaigns dominate contributions to incumbents for these funds.
3. Allow only individuals to contribute to PACs.
4. Require extensive disclosure of individuals who make Independent Expenditures.
5. Close the significant PAC loophole that allows them to receive unlimited donations in non-election years for political contributions.
6. Prohibit lobbyists from bundling contributions.

We congratulate the Council for introducing serious legislative reforms to address the insidious pay-to-play culture. These reforms are welcome at a time when public cynicism is high and there is widespread suspicion that elected officials are under the control of corporations and developers. It unfairly jeopardizes the reputation of elected officials who do conduct themselves with honesty and integrity. Enacting the proposed legislative reforms would go far towards increasing public confidence in our government. Thank you.

LEAGUE OF WOMEN VOTERS®
OF THE DISTRICT OF COLUMBIA

Testimony before the Hon. Charles Allen
Council of the District of Columbia Committee on Judiciary and Public Safety

RE: Campaign Finance Transparency and Accountability Amendment Act of 2017 (B22-0008), Comprehensive Campaign Finance Amendment Act of 2017 (B22-0051), Clean Elections Amendment Act of 2017, (B22-0032), and Campaign Finance Reform Amendment Act of 2017 (B22-0107)
July 10, 2017

Good Morning. My name is Linda Beebe, currently the President of the League of Women Voters of the District of Columbia. I am here today to speak for the League in support of your passage of strong campaign finance reform.

The League of Women Voters is a citizens' organization that has fought since 1920 to improve our government and to engage citizens in the decisions that have an impact on their lives. Our mission is to encourage informed and active participation in government, work to increase understanding of major public policy issues, and influence public policy through education and advocacy.

Since the early 1970s, the League of Women Voters has studied and developed positions that support campaign finance reform. We have sought ways to combat undue influence in the election process and to eliminate the influence of "dark money." In the 2014-2016 biennium, the League of Women Voters conducted a national study of Money in Politics and developed a set of positions that resonate strongly with the bills you are considering today. Among our major concerns are disclosure and stopping the Super PACs. For more on our findings, please see the resource section of this testimony.

Today you are considering the merits of four bills aimed at improving our democratic elections processes. Two of them—B22-0032, the Clean Elections Amendment Act of 2017, introduced by Councilmembers Grosso, Silverman, Cheh, Allen, and Nadeau, and B22-0107, the Campaign Finance Reform Amendment Act of 2017, introduced by Councilmembers Bonds, Allen, and Grosso—seem to us straight forward improvements that could be enacted without much debate. The Clean Elections Act would clarify when expenditures are considered contributions and allow only individuals to contribute to political committees. The Campaign Finance Reform Act would require consent for the use of someone's image in campaign literature; most importantly it would require candidates to retire campaign debts within six months. We would hope this bill will lead to greater accounting for contributions and expenses.

The other two bills go to the heart of the problems with big money in politics. The Campaign Finance Transparency and Accountability Amendment Act (B22-0008), introduced by Chairman Mendelson for Attorney General Karl Racine, seeks to assure independent expenditures, prevent both individuals and organizations from hiding behind "dark money" groups, and close the loophole that allows PACs to collect unlimited donations in non-election years. The Comprehensive Campaign Finance Reform Amendment Act (B22-0051), introduced by Council Members Gray and Trayon White, addresses many of the same issues. The bill would establish restrictions on bundled contributions and sets forth disclosure requirements.

1101 15th Street, NW, Suite 1100, Washington, DC 20005
202-222-0710 . lwvdc1920@gmail.com
www.lwvdc.org

Both bills seek to eliminate the District's long running reputation for being a pay-to-play jurisdiction, a place where developers gain city contracts and tax abatements with political contributions. Investigative reporters and public interest groups have documented the connections between contributions and contracts and the recurring habits of Limited Liability Corporations bundling contributions from family and friends. We need to hold both corporations and their executives and families accountable for contributions.

In our reading the bills differ primarily in the limits they would set on contributions. We hope that the Judiciary Committee will reach agreement on combining the two bills into one that the full Council will pass in the very near term. Running for office costs money, but money should not be permitted to buy elections. We want to make it possible for all candidates to have equitable access to funding and for the maximum number of citizens to participate in elections.

All year you will find League of Women Voters members working across the city to register voters and to encourage them to vote. Regrettably, all too often, we meet residents who say they see no value in voting because their vote won't count—it's the big money that counts. We believe that the bills before you can go a long way toward restoring public faith and trust in our democracy. And we believe that our nation's capital should be in the forefront of reform that protects that democracy.

We hope that you will take positive action on these bills. Thank you for your attention.

Resources:

Where We Stand; the Position Statements of the League of Women Voters in the District of Columbia." https://static1.squarespace.com/static/56e6cad12fe13155d5243018/t/577456dee6f2e1176cd92f58/1467242208504/2009WhereWeStandWeb.pdf

http://www.lwv.org/content/impact-issues.

http://lwv.org/content/money-politics

Testimony
of
Eric J. Jones, MSF

June 10, 2017
Public Hearing of the Committee of the Judiciary and Public Safety

B22-0008, the "Campaign Finance Transparency and Accountability Amendment Act of 2017"
B22-0032, the "Clean Elections Amendment Act of 2017"
B22-0051, the "Comprehensive Campaign Finance Reform Amendment Act of 2017"
B22-0107, the "Campaign Finance Reform Amendment Act of 2017"

Good morning Chairman Allen and the members of the Committee of the Judiciary and Public Safety "The Committee". I am Eric J. Jones, MSF, Associate Director of Government Affairs for the Associated Builders and Contractors "ABC" of Metro Washington. ABC of Metro Washington is the pre-eminent advocate for fair and open competition and the merit shop philosophy, and the premier construction association in the metropolitan Washington, D.C. area. I am also a fourth generation Washingtonian, a former candidate for At-Large City Council, former Executive Vice President of the DC Young Democrats and a three term member of the DC Democratic State Committee. In addition, I have also served as a political strategist and consultant for political campaigns on the National, State and Local.

Today I am speaking not only as an active lobbyist within this District for the last decade, but as someone with an unique set of experiences and expertise as it relates to the management of political campaigns, ballot initiatives and political action committees (PACs). In this regard I have a great concern with the undemocratic recommendations and blanket accusations laid out in the legislation before us today. Upon reading the aforementioned legislation, one would gain the impression that there is an ethics issues as it relates to a quid pro quo or pay for play culture in our local politics. One would also gain the impression that an inundation of corporate contributions and high paid lobbyist has taken control of our government and in particular or legislative body.

Not only are these accusations far from truthful, they are also an assault on the corporate citizens of our population, and stand to put these same entities at a competitive and corporate disadvantage within the District. Not only would the legislation in question prevent corporations that hope to do business with the District from taking part in the political process, they would also take away the voice of the group that provides a large portion of the operational funds for our government. The thought of this is especially troubling considering that over the last three legislative sessions we have seen an increase in the amount of legislation being pushed against corporations. In most instances the legislation is in direct opposition to the way these companies operate and are pushed and or developed by groups who have provided direct support to our legislature via political/campaign endorsements, direct campaign contributions and other support while not being covered by this legislation.

Even more concerning is the fact that we have seen time and time again having the most funds does not ensure a candidate will win election. Similarly, we have also seen that businesses and trade organizations who are in direct opposition of legislation before this body does not have

undue influence no matter their previous campaign contributions and or lobbying budget. Some clear examples of both of these issues would be:

- The election of Councilman Phil Mendelson's in 2006, Council members Charles Allen and Elissa Silverman in 2014 & Councilman Trayon White in 2016.
- The passage of the Accrued Sick and Safe Act
- The increase of the District's minimum wage
- The passage of Wage Theft Legislation, and
- The passage of the Universal Paid Leave Act

Because of the reasons listed above, neither I nor the membership of ABC of Metro Washington can support these bills. We do however agree that the goal of any government should be openness, honesty and transparency. To those points, we would recommend that the committee consider the following points as we move forward:

1. Truly ethical decision making by officials weather elected or appointed requires full transparency and responsibility, not prohibitions.
2. All members of our citizenry, including our corporate citizens and their affiliate trade organizations have the right to engage in process of public affairs including, but not limited to communications with government officials as well as providing support for those who they deem in their best interest politically
3. Monetary contributions and support of ballot initiatives, political action committees, political candidates and political parties are not corrupting or unethical when properly monitored and disclosed to the public.
4. Complicated and tedious compliance requirements (especially increasing the number of fillings) increase the potential for inadvertent errors which will further lead to accusations of unethical behavior by our citizenry and government officials.

In closing, I thank you for the opportunity to provide testimony and am available to answer any questions you all may have.

Before the
Council of the District of Columbia

Committee on Judiciary and Public Safety

Public Hearing

Bill No. 22-0008
"Campaign finance Transparency and Accountability Amendment Act of 2017"
Bill No. 22-0032
"Clean Elections Amendment Act of 2017"
Bill No. 22-0051
"Comprehensive Campaign Finance Reform Amendment Act of 2017"
Bill No. 22-107
"Campaign Finance Reform Amendment Act of 2017"

July 10, 2017

Testimony
of
Roderic L. Woodson, Esq.

Good day Chairman Allen and Members of the Committee on the Judiciary and Public Safety ("Committee"). My name is Roderic L. Woodson, and I am a partner with the Washington office of Holland & Knight LLP, and co-chair of its DC Practice Group. I am pleased to appear before the Committee to provide comments on Bill No. 22-0008, *"Campaign finance Transparency and Accountability Amendment Act of 2017"*; Bill No. 22-0032, *"Clean Elections Amendment Act of 2017"*; Bill No. 22-0051, *"Comprehensive Campaign Finance Reform Amendment Act of 2017"*; and, Bill No. 22-107, *"Campaign Finance Reform Amendment Act of 2017"*.

At the outset, it is noted that I have been an active and engaged member of the District of Columbia community as both a resident and as a member of the legal/business sectors since the beginnings of modern Home Rule in the 1970s. Compared with other jurisdictions, ours is a young democracy; and, a hallmark of this short history is an openness to participation in public policy formation by the entirety of our citizenry. "Citizenry", however, is not simply limited to natural persons. Members of the business/commercial community are likewise "citizens" --- they pay taxes, comply with regulatory requirements, and follow the law just the same as everyone else. The one thing that is missing is the right to vote. Yet, absence of the voting franchise is not, and should not, act as a disqualification from being able to influence governmental affairs. Indeed, the *sine qua non* of any

democracy is the ability of citizens to influence its government. The question at hand is how that influence is exercised within an appropriate ethical framework. [1]

This said, the Committee's attention is invited to several precepts within which to engage this debate:

First: *Decision-making by elected and appointed officials calls for transparency in the conduct of public affairs.* While, this idea seems axiomatic, there is a need to not only state the obvious, but to be considered about what "transparency" actually means, and when it should apply. On the surface it may mean conducting public affairs "in the light of day", or in a way that can be discerned by observers. However, since no one can see or hear everyone at the same time, "transparency" then implies a need for some form of reporting regime. But, what triggers such reporting? Is *every* interaction a reportable event -- i.e., a meeting; a phone conversation; a chance conversation on the street, in a social setting, some governmental forum, or otherwise? Does the *subject* of the interaction matter? Who is responsible to do this reporting? If the issue we are concerned about is "influencing" decision-making, what difference does it make with respect *who* is doing the "influencing"? Shouldn't *all* efforts to "influence" be known?

Second: *Business entities, just like natural persons, have a <u>right</u> to engage in public affairs and to communicate with elected and appointed officials.* Hyperbole to the side, is this really such a controversial matter? What is the objective which mandates that commercial interests should be muzzled when matters calling for public policy decision-making are being debated?

Third: *There is nothing inherently nefarious or corrupting about monetary contributions or other contributions from businesses to political campaigns, political action committees, or political parties in the District if publicly disclosed.*

Fourth: *Undue complexity in technical compliance requirements, coupled with expanding the number of compliance filings (particularly in a shortened time periods), increases the likelihood of inadvertent errors and concomitant allegations of misconduct or legal violations.*

These precepts are closely related, and the measures before you today on campaign finance and government procurement bring each of them to bear.

---

[1] "Ethics" in this situation is not a synonym for "legal ethics". Ethics in this situation are the broader principles of right and wrong which govern conduct in public policy decision-making where individual pecuniary interests are at issue.

Campaign Finance

Campaign finance is a very testy subject right now. "Let's get big money out of campaign finance" is the mantra of the day.[2] This slogan has been manipulated to advance the assumption that the presence of *any* money from a business source is improper as a corruption of electoral contests and thus an ethical violation *per se*.

Bill 22-0008 implements this notion through an intricate web of new or intensified regulatory prescriptions, certifications, prohibitions, and reporting requirements. Just to cite two examples: first, the demand that political action committees create segregated financial accounts for campaign *expenditures*, and then assigning expansive reporting and certification requirements for anyone or any entity who has donated to the "pac". All this in spite of the fact that, as legal entities, *political action committees exist only to make political expenditures* and they engage detailed reporting on such expenditures right now. The idea that a segregated account is somehow now needed is simply a fiction. Creation of such accounts do, however, provide another opening to create this additional layer of regulation.

The second example is the idea of "coordination" with political campaigns or political committees. After stating that such "coordination" is prohibited, the bill imposes as "rebuttable presumption" that an expenditure by a "person" is "coordinated" if the person knows, or is told about, about a campaign's "needs, plans, or messaging". Think about that a moment. *Anyone* can learn about a campaign's "needs, plans, or messaging" if one simply attends a campaign event. That is what any political campaign does – it tells folks about "needs, plans and messages".

In sum, this bill proposes death by a thousand cuts to any business interest, business entity or business person. The chance of inadvertent error is so great and the consequences of any error is so significant, that the best approach for any business interest is simply to stay away.

By contrast, Bill 22-32 goes right to the point: prohibit any contribution to a political committee by anyone other than an "individual", a Constitutionally dubious proposition on its face. The Bill proposes some other things also, but the idea is that political contributions from businesses are corrupting.[3]

---

[2] Never-mind that the District has some of the lowest campaign finance limitations in the nation.

[3] The issue of "coordination" is further muddled by Bill 22-32. This measure proposes amending DC Code 1-1163(a)(2) regarding independent expenditure committees by adding the idea of "control" and "coordination" (in addition to contributions) to political committee or political action committees. Moreover, this Bill also adds uncertainty to DC Code §1-1161.01(10A) by seeking to insert the phrase "*or acting in a manner that creates the appearance thereof*" to the definition of "Control or Controlling Interest". Under this language, the "appearance" of

However, one salient point is left out of all this legislative "hand-wringing" --- *every campaign asks for the money it receives.*

Government Procurement

Procurement of goods and services by the DC government has been a consistent issue over the years. At first, it was mainly a problem of consistent, reliable, fair, and professional procurement administration. The history of the Procurement Reform Act bears witness to this truth. Then, when that was not enough, Council review of contract awards was imposed --- where "review" means that the Council must affirmatively approve such awards. Thus, procurement draws both the executive and the legislative branches of government into a zone of "ethical" concerns called "pay to play". This is a short-hand assertion that individual commercial interests contribute to the political arena in order to receive "preferred consideration" when doing any business with the District.

Bill 22-8 is almost retaliatory in its approach. In this proposal *any* contribution to an elected official, a candidate for elected office, a political committee, a political party, or a political action committee is grounds for disqualification in any business relationship with the District government. While there is a credible argument to barring monetary contributions to elected officials, candidates, or their related political committees, that is not the same for the remaining categories. An assertion that a contribution to a political party or a political action committee would bring some "preferred consideration" in individual procurements is extremely remote and just overkill. Only slightly less dramatic, Bill 22-51 suffers the same infirmity.

With few exceptions, every elected official in the District is a member of the Democratic Party (and has been so since the beginning of Home Rule), and the Party does not decide or influence procurement decisions by the government. Concomitantly, political action committees are assemblages of individuals and businesses whose political expenditures are likewise remote from individual *procurement* decisions.

There is, however, an uncomfortable truth about all this. *Council review and approval of procurement contracts is an inherently political decision.* Thus, to preserve the political prerogatives of these decisions, we have thrust upon the community this "pay-to-play" imbroglio, along with the punitive regulatory structures we are considering at this very moment.

---

something becomes the problem/violation whether it actually is or not. "Control" or Controlling Interest" is a matter of fact, not just a speculation. These proposals should be rejected

Other Matters

Bill No. 22-107 proposes to specify that campaign debt should be retired with six (6) months following an election. It is recommended that this short time period be extended to at least nine (9) months Notwithstanding, if any time period is to be specified by the statute, the language should also include a "good cause" proviso where appropriate to avoid automatic violations and penalties. [4]

This concludes my prepared remarks, and I will be pleased to respond to any questions the Committee may wish to ask.

[4] Thus, DC Code §1-1163.10a(2) would read "Used to retire the proper debts of his or her political committee that received the funds within six (6) months following the election; provided, that this time period may be extended for good cause shown".

BRENNAN
CENTER
FOR JUSTICE
TWENTY
YEARS

Brennan Center for Justice
at New York University School of Law

120 Broadway
Suite 1750
New York, New York 10271
646.292.8310 Fax 212.463.7308
www.brennancenter.org

Testimony of Brent Ferguson
Counsel, Brennan Center for Justice at NYU School of Law

Submitted to the Council of the District of Columbia Committee on the Judiciary & Public Safety

July 10, 2017 Hearing
Re: Bill 22-0008; Bill 22-0032; Bill 22-0051

The Brennan Center for Justice at NYU School of Law thanks the Committee for the chance to discuss the benefits of several important campaign finance reforms today. In recent years, campaign spending from groups like super PACs has increased significantly and has often come from undisclosed sources. When such groups spend massive amounts on local elections, the risk of corruption and its appearance increases sharply, and regular citizens often feel that their voices are not heard. Yet smart and well-targeted campaign finance laws can ameliorate the worst abuses: experience in states and cities across the country demonstrates the value of laws (1) requiring meaningful disclosure of campaign spending; (2) preventing coordination between campaigns and unlimited outside groups; and (3) limiting campaign contributions by government contractors. For that reason, we support the goals behind bills 22-0008, 22-0032, and 22-0051. This testimony addresses the importance of those goals and suggests some amendments to the bills.

In addition to the suggestions made herein, we recommend that the Committee, and the Council as a whole, call for testimony and present evidence about specific problems that have arisen in the District's campaign finance system, as well as evidence (such as social science studies and experiences from other states) about how the proposed reforms could solve these problems.[1] Examining such evidence at the hearing stage can help the Council craft laws that will best respond to the problems the District has seen in recent years, and courts reviewing campaign finance laws often look closely at the reasons for passage and ask whether the legislature reviewed evidence of the laws' necessity.[2]

---

[1] *See* Brent Ferguson & Chisun Lee, *Developing Empirical Evidence for Campaign Finance Cases*, BRENNAN CTR. FOR JUSTICE (Oct. 2016), https://www.brennancenter.org/publication/developing-empirical-evidence-campaign-finance-cases.

[2] *See, e.g.*, Green Party of Connecticut v. Garfield, 616 F.3d 189, 206 (2d Cir. 2010) (striking down lobbyist contribution ban because there was "insufficient evidence to demonstrate that all lobbyist contributions give rise to an appearance of corruption").

Meaningful disclosure of campaign spending

We strongly support the Council's efforts to update the District's disclosure laws in response to the recent rise of independent spending. Disclosure of campaign spending can discourage corruption by putting the spotlight on big spenders, and studies have demonstrated that information about such spending can affect voter evaluations of candidates.[3] States and cities across the country have responded to this spending by enacting laws designed to ensure that citizens know the identities of big-dollar donors seeking influence over elections and elected officials. Those with well-crafted laws have successfully reduced the amount of undisclosed spending in their elections.[4]

Bills 22-0008 and 22-0051 each contain elements that would improve citizens' access to information about election ads: Bill 22-0008 requires all groups that make independent expenditures disclose their donors, while Bill 22-0051 provides that all election-related advertisements must include a disclaimer naming the ad's sponsor. Both of these are vital to providing useful information for District residents: anyone who sees a political advertisement should know the name of the group responsible for it, and should be able to easily learn who is funding that group.

Some states have begun to enact even more robust laws so disclosed information is both thorough and easily accessible. We recommend consideration of two amendments that would serve those goals:

- Require that outside spending groups report the *original source* of each major contribution they receive, so they cannot mask the names of their true donors by accepting money from shell groups.[5] "Original source" can be defined as a person or entity that makes contributions from its own resources, such as wages, inheritance, or revenue, and not from donations.
- In addition to an advertising disclaimer that contains the sponsor of the communication, require the sponsor to list the original source for its top five contributors, so viewers can most easily learn the true source of the communication's funding.[6]

Preventing coordination between candidates and outside groups

Since the Supreme Court's decision in *Citizens United* and subsequent decisions allowing for the creation of super PACs, adopting straightforward rules regarding the distinction between coordinated and independent expenditures has become critical to maintaining integrity in

---

[3] *See, e.g.*, Conor M. Dowling & Amber Wichowsky, *The Effects of Increased Campaign Finance Disclosure: Evaluating Reform Proposals*, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2483194&download=yes (finding "some evidence that campaign finance information affected candidate evaluations and vote choice, but that subjects' evaluations were particularly sensitive to whether they were told that out-of-state donors provided the majority of the donations").

[4] Chisun Lee et al., *Secret Spending in the States* 23, BRENNAN CTR. FOR JUSTICE (June 2016), https://www.brennancenter.org/publication/secret-spending-states.

[5] *See id.* at 25. States have approached this problem in several different ways. *See, e.g.*, Cal. Gov't Code § 84222(e)(5); Conn. Gen. Stat. § 9-621(j)(1).

[6] Several states have similar requirements. *See, e.g.*, Wash. Rev. Code § 42.17A.320; Conn. Gen. Stat. § 9-621(h).

elections and preventing candidates and outside spenders from circumventing contribution limits entirely. The Supreme Court has made it clear that expenditures made by groups or individuals in coordination with candidates should be treated as contributions, not independent expenditures, and thus should be subject to contribution limits.[7] Yet as noted in the Brennan Center's report examining coordination in the states after *Citizens United*, many jurisdictions fail to meaningfully prevent collaboration between candidates and super PACs, defeating the purpose of contribution limits.[8]

Several provisions in bills 22-0008 and 22-0032 would improve coordination laws in the District. Both bills clarify that any expenditure coordinated with a candidate's campaign should be treated like a contribution, and therefore limited. Importantly, both also require outside spending groups like super PACs to certify that they have not coordinated with a campaign. Such certification requirements that have withstood constitutional challenge[9] are valuable because they help remind outside groups of the rules, easing the enforcement burden.

Bill 22-0008 provides a more detailed definition of coordination, creating a rebuttable presumption that an expenditure is coordinated if there are certain indicators of overlap between a campaign and an outside group. The provisions included would make the District's coordination law more thorough than that of most jurisdictions, and we suggest two additions to strengthen it further:

- In proposed § 1-1161.01(10B)(B)(II), create a cooling off period such that consultants who work for a campaign may not immediately thereafter work for a super PAC. Thus, the language could be changed to: "(II) The person making the expenditure retains the services of a person who, in the previous two years, has provided the covered campaign with professional services related to campaign or fundraising strategy."
- Add a subdivision providing that any expenditure for a communication that reproduces a covered campaign advertisement will be treated as coordinated. Many coordination laws include such provisions to ensure that super PACs cannot use unlimited donations to reprint or rebroadcast candidate advertising.[10]

Restricting contributions by government contractors

Courts and others have consistently recognized that certain types of contributors pose a special risk of corruption because they have much to gain from influencing government decision-making. Among this class of contributors are companies and individuals seeking contracts or grants from government. Just two years ago, the United States Court of Appeals for the D.C. Circuit upheld the federal ban on contributions by government contractors, concluding that "the

[7] *See, e.g.*, Brent Ferguson, *Beyond Coordination: Defining Indirect Campaign Contributions for the Super Pac Era*, 42 HASTINGS CONST. L.Q. 471 (2015).
[8] Chisun Lee et al., *After Citizens United: The Story in the States*, BRENNAN CTR. FOR JUSTICE (Oct. 2014), https://www.brennancenter.org/publication/after-citizens-united-story-states.
[9] *See* Wisconsin Right To Life v. Barland, 751 F.3d 804, 843 (7th Cir. 2014).
[10] *See, e.g.*, 11 C.F.R. §109.23; Cal. Code Regs. tit. 2, § 18225.7(d)(4).

contracting context greatly sharpens the risk of corruption and its appearance."[11]

Bills 22-0008 and 22-0051 both prevent contributors from receiving contracts or grants from the government shortly after a contribution is made. Importantly, the structure of each bill covers *prospective* contractors and grant recipients — those who are in the process of seeking government funding may be the most likely to make contributions in order to gain favor with elected officials. We recommend that the Committee makes certain that each bill prevents contractors from contributing shortly after receiving a contract as well: in some circumstances, quid pro quo deals involve favorable government action followed by a contribution. Preventing contributions from those who have already won contracts lessens the likelihood of "wink and nod" exchanges in which a government official assists a prospective contractor with the understanding that a contribution will soon be forthcoming.

* * *

Once again, we appreciate the opportunity to testify before the Committee. We welcome your questions and thoughts, and will provide further assistance or information at your request.

[11] Wagner v. Fed. Election Comm'n, 793 F.3d 1, 22 (D.C. Cir. 2015); *see also* Green Party of Connecticut v. Garfield, 616 F.3d 189, 202 (2d Cir. 2010) (holding that Connecticut's ban on contractor contributions was "without question, 'closely drawn' to meet the state's interest in combating corruption and the appearance of corruption").

Testimony of Deborah Shore
Chair, Ward 3 Democratic Committee
before the Committee on the Judiciary & Public Safely
July 10, 2017

My name is Deborah Shore and I am Chair of the Ward 3 Democratic Committee. I wish to thank Chairperson Charles Allen and other members of this Committee for the opportunity to provide testimony.

By way of background, the Ward 3 Democratic Committee is composed of over 90 Ward 3 Democratic Party activists who are elected from each precinct in Ward 3. The Committee has developed several issue task forces that afford our membership the capacity to conduct research and formulate positions and recommendations on issues of significance to the District of Columbia. Our Ethics Task Force is very active and is currently focused on campaign finance reform. The Ward 3 Democratic Committee partnered with the David A. Clarke School of Law at UDC to organize a panel discussion in May that focused on campaign finance reform.

On May 18, the Ward 3 Democratic Committee unanimously passed a resolution on campaign finance reform that I attach to my testimony. The resolution is premised on the desire to further democratize the election process and encourage fair governance. It also assumes that the cause of ethical governance will be served by addressing the "pay-to-play" culture that undermines trust in government. This culture, which is perfectly legal and widespread, is no less corrosive to our democracy than the occasional commitment of actual crimes.

The Ward 3 Democratic Committee's resolution supports several principles that are incorporated in the campaign finance reform bills that are the subject of this hearing, as well as the DC Fair Elections Act.

Specifically, we support prohibiting entities that make political contributions from bidding on or engaging in D.C. Government contracts (above a specified amount). We are pleased to see that this potentially transformational change is contained in both the Campaign Finance Transparency and Accountability Amendment Act (B22-0008) and Comprehensive Campaign Finance Reform Amendment Act (B22-0051).

We also support several changes to rules governing political action committees and constituent service programs. We favor allowing only individuals to contribute to political committees and constituent service programs, strengthening the regulation of independent political committees, and prohibiting the coordination of independent political committees with political campaigns. We are pleased to see that these changes

are included in the Campaign Finance Transparency and Accountability Amendment Act (B22-0008) and the Clean Elections Amendment Act (B22-0032).

Finally, we support closing loopholes relating to contributions to political action committees in non-election years. Again, we are pleased to see that this change is incorporated into the Campaign Finance Transparency and Accountability Amendment Act (B22-0008).

Strengthening our campaign finance laws, as the above bills will do, will significantly reduce the corrupting influence of money in politics. In particular, the prohibition of entities that contribute to political campaigns from engaging in D.C. Government contracts promises to significantly transform our political culture for the better. For too long, companies holding large government contracts enjoy undue influence in the halls of government. The Ward 3 Democratic Committee, together with the broader public, is impatient to see this change.

We commend the Council for introducing these important bills and for holding this hearing. We hope that the Committee and the full Council will move these bills forward quickly and enact them this year. Together with the Fair Elections Act, this legislation will significantly improve governance and democracy in the District of Columbia.

Thank you for the opportunity to testify today. I'd be happy to answer any questions.

WARD 3 DEMOCRATS' RESOLUTION RE
CAMPAIGN FINANCE REFORM (5/8/17)

Whereas, the Ward 3 Democratic Committee supports ethical governance of the District of Columbia;

Whereas, DC residents are concerned that a "pay-to-play" culture distorts governmental decision-making;

Whereas, numerous studies have concluded that campaign finance reforms further democratize the election process, encourage fair governance, and result in cost savings to taxpayers;

Whereas, several campaign finance reforms which address such concerns are pending before the D.C. Council;

Therefore, it is hereby resolved by the Ward 3 Democratic Committee of the District of Columbia that:

1. We support the following general principles of the proposed Fair Elections Act of 2017 (B22-0192):
   a. To provide a system of voluntary public financing for qualifying candidates for D.C. Mayor, D.C. Council, Attorney General, and State Board of Education;
   b. To provide public funds that are capped at a specified amount and encourage small donations through a matching system;
   c. To impose limits on candidates who accept public financing, such as the source and amount of contributions;
   d. To impose conditions for qualifying for public financing, such as raising a minimum amount of small contributions from a minimum number of individuals.

2. We will work with other groups throughout the city that are actively seeking to promote the passage of public financing legislation.

3. We support the following general principle of the Government Contractor Pay-to-Play Prevention Amendment Act of 2017 (B22-0047), the Campaign Finance Transparency and Accountability Amendment Act of 2017 (B22-0008), and the Comprehensive Campaign Finance Reform Amendment Act of 2017 (B22-0051):

To prohibit entities that make political contributions from bidding on or engaging in D.C. government contracts above a specified amount.

4. We support the following general principle of the Clean Elections Amendment Act of 2017 (B22-0032) and the Campaign Finance Transparency and Accountability Amendment Act of 2017 (B22-0008):

To allow only individuals to contribute to political committees and constituent-service programs, to strengthen the regulation of independent political action committees, and to prohibit their coordination with political campaigns.

5. We support the following general principle of the Campaign Finance Transparency and Accountability Amendment Act of 2017 (B22-0008):

To close loopholes relating to contributions to political action committees in non-election years.

6. The Ward 3 Democratic Committee Chair or the Chair's designee(s), or the Ward 3 Democratic Committee Chair and the Ethics Task Force Co-Chairs or their designees, are authorized to transmit, testify to, publicize and carry out this resolution, and otherwise work with other individuals, organizations, and government representatives to implement this Resolution."

Passed unanimously by the Ward 3 Democratic Committee on May 18, 2017.

1411 K St. NW, Suite 1400
Washington, DC 20005

THE CAMPAIGN LEGAL CENTER

Tel: 202.736.2200
Fax: 202.736.2222

The Council of the District of Columbia
Committee on the Judiciary & Public Safety

Public Hearing on B22-0008, the "Campaign Finance Transparency and Accountability Amendment Act of 2017"; B22-0032, the "Clean Elections Amendment Act of 2017"; B22-0051, the "Comprehensive Campaign Finance Reform Amendment Act of 2017"; and B22-0107, the "Campaign Finance Reform Amendment Act of 2017"

July 10, 2017

Good morning, Chairman Allen and Members of the Committee.

My name is Adav Noti; I am the Senior Director of Trial Litigation and Strategy at the Campaign Legal Center and former Associate General Counsel of the Federal Election Commission. The Campaign Legal Center is a nonpartisan organization that provides legal expertise and guidance to governmental bodies and organizations throughout the country regarding campaign finance and other election-law matters, and we litigate cases regarding those issues in the federal district and appellate courts, and in the United States Supreme Court.

Thank you for allowing me the opportunity to testify today in support of the Campaign Finance Transparency and Accountability Act of 2017 and the Comprehensive Campaign Finance Reform Amendment Act of 2017.[1] The Campaign Legal Center has reviewed the bills very closely, and we believe that these bills would make important improvements to D.C.'s campaign finance laws. If enacted, these bills would meaningfully inhibit the types of pay-to-play scandals that have cast a shadow over the District's government in recent years. Further, the anti-coordination provisions in the Attorney General's bill would help prevent circumvention of candidate contribution limits through "independent" expenditures that are not truly independent of candidates.

Pay-to-Play

In the context of government contracting, courts have long recognized that a contractor's campaign contributions, or other forms of personal or campaign support, to officials with authority over contracts raise heightened corruption concerns. Indeed, Congress has prohibited federal contractors and prospective contractors from making political contributions to federal candidates since 1940. A

[1] The Campaign Legal Center also supports the portions of the Clean Elections Amendment Act of 2017 that address coordination. The Campaign Legal Center takes no position on the Campaign Finance Reform Amendment Act of 2017.

growing number of states and localities similarly have taken steps to restrict political contributions from government contractors. At least seventeen states have limits or prohibitions on campaign contributions from current and/or prospective government contractors or licensees.[2] Various municipalities, including New York City and Los Angeles, have followed suit with their own "pay-to-play" restrictions.[3]

Courts have approved reasonable restrictions on the campaign-related spending of entities doing business with the government. In fact, the constitutionality of the federal contractor contribution ban — which bars contractors from contributing "directly or indirectly" to federal candidates, political parties or PACs — was recently upheld by the en banc D.C. Circuit.[4] The court recognized two governmental interests sufficient to justify the ban: preventing the actuality and appearance of corruption,[5] and preventing "interference with merit-based public administration" to ensure that contracting "depend[s] upon meritorious performance rather than political service."[6]

The Second Circuit has upheld similar laws, including New York City's regulation of contributions from entities "doing business" with the city.[7] The upheld law is expansive, covering persons who have received or are seeking contracts, franchises, concessions, grants, pension fund investment contracts, economic development agreements, or land use actions with the city.[8]

The D.C. Council's significant role in oversight of the contracting process — approving contracts worth more than $1 million — creates the appearance of, if not the opportunity for, favoritism towards political supporters.[9] We agree with the

---

[2] Cal. Gov't Code § 84308(d); Conn. Gen. Stat. § 9-612(f)(1)-(2); Haw. Rev. Stat. § 11-355; 30 Ill. Comp. Stat. 500/50-37; Ind. Code §§ 4-30-3-19.5 to -19.7; Ky. Rev. Stat. Ann. § 121.330; La. Rev. Stat. Ann. §§ 18:1505.2(L), 27:261(D); Mich. Comp. Laws § 432.207b; Neb. Rev. Stat. §§ 9-803, 49-1476.01; N.J. Stat. Ann. § 19:44A-20.13 to -20.14; N.M. Stat. Ann. § 13-1-191.1(E)-(F); Ohio Rev. Code § 3517.13(I) to (Z); 53 Pa. Cons. Stat. § 895.704-A(a); S.C. Code Ann. § 8-13-1342; Vt. Stat. Ann. tit. 32, § 109(B); Va. Code Ann. § 2.2-3104.01 (amended by Va. Acts 2013, Ch. 583 (eff. July 1, 2014)); W. Va. Code § 3-8-12(d).

[3] N.Y.C. Admin. Code §§ 3-702(18), 3-703(1-a) to (1-b); L.A., Cal., City Charter § 470(c)(12).

[4] *See Wagner v. FEC*, 793 F.3d 1 (D.C. Cir. 2015).

[5] *Id.* at 3.

[6] *Id.* at 8-9.

[7] *Ognibene v. Parkes*, 671 F.3d 174 (2d Cir. 2011); *see also Green Party of Conn. v. Garfield*, 616 F. 3d 189 (2d Cir. 2010) (upholding Connecticut's ban on contributions by contractors and their principals).

[8] *Ognibene*, 671 F.3d at 179.

[9] D.C. Code § 2-352.02; *see* Patrick Madden, *The Cost of D.C. Council's Power Over*

recommendation in Councilmember Cheh's recent report that the Council should consider amending campaign finance law to limit contractors' campaign contributions. As stated in her report, "Where impressions of favoritism cause contractors to refrain from bidding on particular contracts, that lack of competition means that the District loses out—on price, work quality, and engagement of local workers or businesses."[10]

Coordination

The Campaign Legal Center is keenly aware that the vast amount of money spent on independent expenditures has affected campaigns at all levels of government. The U.S. Supreme Court's decision in *Citizens United* and subsequent court decisions allowed corporations and labor unions to make unlimited expenditures to influence elections so long as the expenditures are actually independent of candidates.[11] As the amount of unlimited outside spending has increased, the legal lines separating "independent" and "coordinated" spending have become critically important. Candidates, their supporters, and their lawyers have pushed the boundary of what constitutes an "independent" expenditure to absurdity. Without effective regulation of coordinated spending between candidates and their supporters, candidate contribution limits are meaningless. For example, if a D.C. mayoral candidate can solicit a $50,000 contribution from a supporter to a so-called "independent" expenditure committee supporting that candidate, then the District's $2,000 limit on contributions to mayoral candidates is completely undermined. Such candidate involvement in political fundraising and spending is precisely the type of corrupting scenario that contribution limits are intended to prevent.

Consistent with the Supreme Court's pronouncement in *Citizens United* that independent expenditures cannot be constitutionally limited because they "do not give rise to corruption or the appearance of corruption,"[12] *non*-independent — i.e., coordinated — expenditures may permissibly be limited. The Supreme Court has repeatedly emphasized the degree of independence that is necessary to prevent

---

Contracts, WAMU, http://wamu.org/projects/paytoplay/#/officials (last visited July 9, 2017) (stating that no other state-level legislature has similar authority over contracts).

[10] Findings and Recommendations of Mary M. Cheh on the Department of General Services Contracting and Personnel Management, at 41-42 (June 14, 2017), http://marycheh.com/wp-content/uploads/2017/06/2017-06-14-DGS-Contracting-and-Personnel-Report-by-Mary-Cheh-no-attachments.pdf.

[11] *See Citizens United v. FEC*, 558 U.S. 310, 360 (2010) ("By definition, an independent expenditure is political speech presented to the electorate that is not coordinated with a candidate.").

[12] *Id.* at 357.

outside spending from "undermin[ing] contribution limits":[13] Only "totally independent,"[14] "wholly independent,"[15] and "truly independent"[16] expenditures qualify.

The anti-coordination provisions in the Attorney General's bill would help maintain a meaningful line between groups making independent expenditures and candidates. The bill establishes several scenarios that if satisfied would create a rebuttable presumption that a campaign expenditure was coordinated with a candidate, including:

- If the campaign provides information about its needs or plans to the person making the expenditure;
- If the campaign and the person making the expenditure share a common vendor providing campaign or fundraising strategy; or
- If the group making the expenditure is run by a candidate's immediate family member or former high-level staff.

These presumptions are reasonable, targeted responses to the kinds of coordination we have seen between candidates and so-called independent spenders.

For these reasons, the Campaign Legal Center supports the Campaign Finance Transparency and Accountability Act of 2017 and the Comprehensive Campaign Finance Reform Amendment Act of 2017, and we urge the Committee to take favorable action on these important pieces of legislation.

Thank you again for the opportunity to testify. I look forward to your questions.

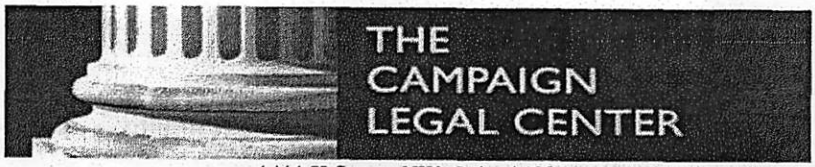
---

[13] *FEC v. Colo. Republican Fed. Campaign Comm.*, 533 U.S. 431, 464 (2001) ("*Colorado II*").

[14] *Buckley v. Valeo*, 424 U.S. 1, 47 (1976).

[15] *McConnell v. FEC*, 540 U.S. 93, 221 (2003).

[16] *Colorado II*, 533 U.S. at 465.



1411 K Street, NW, Suite 1400
Washington, DC 20005
tel: 202-736-2200 fax: 202-736-2222

July 24, 2017

By Electronic Mail (judiciary@dccouncil.us)

Council of the District of Columbia
Committee on the Judiciary & Public Safety
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Re: Testimony in Support of B22-0008 the "Campaign Finance Transparency and Accountability Amendment Act of 2017" and B22-0051 the "Comprehensive Campaign Finance Reform Act"

Dear Chairman Allen and Members of the Committee:

Thank you for the opportunity to submit this written testimony, and to testify at the Committee's hearing on July 10, in support of the campaign finance reform bills the Committee is considering. The Campaign Legal Center supports the Campaign Finance Transparency and Accountability Amendment Act of 2017, B22-0008 (Attorney General Racine's bill); and the Comprehensive Campaign Finance Reform Amendment Act of 2017, B22-0051 (Councilmembers White's and Gray's bill).[1]

The Campaign Legal Center has reviewed the bills very closely, and we believe that they would make important improvements to D.C.'s campaign finance laws. If enacted, these bills would meaningfully inhibit the types of pay-to-play scandals that have cast a shadow over the District's government in recent years. Further, the anti-coordination provisions in the Attorney General's bill would help prevent circumvention of candidate contribution limits through "independent" expenditures that are not truly independent of candidates. In this testimony, the Campaign Legal Center offers a few suggestions regarding what we see as provisions necessary for effective pay-to-play legislation, and provides analysis regarding the constitutionality of pay-to-play and anti-coordination reforms.

---

[1] The Campaign Legal Center also supports the portions of the Clean Elections Amendment Act of 2017, B22-0032, that address coordination. The Campaign Legal Center takes no position on B22-0107, the Campaign Finance Reform Amendment Act of 2017.

I. The bills before the Committee include important provisions that would begin to address the pay-to-play scandals that have plagued D.C. politics.

The Campaign Legal Center (CLC) urges the Committee to act expeditiously in the passage of a robust pay-to-play law. Enacting pay-to-play reforms would be an important step toward addressing the pay-to-play scandals that have plagued D.C. politics in recent years.[2] The D.C. Council's significant role in oversight of the contracting process — approving contracts worth more than $1 million — creates the appearance of, if not the opportunity for, favoritism of political supporters.[3] We, therefore, agree with the recommendation in Councilmember Mary Cheh's recent report that the Council should consider amending campaign finance law to limit contractors' campaign contributions. As stated in her report, "Where impressions of favoritism cause contractors to refrain from bidding on particular contracts, that lack of competition means that the District loses out—on price, work quality, and engagement of local workers or businesses."[4]

---

[2] *See D.C. corruption scandals: A primer*, WASH. POST (last updated June 10, 2013), http://www.washingtonpost.com/wp-srv/special/local/dc-corruption-scandals; Patrick Madden, *The Cost of D.C. Council's Power Over Contracts*, WAMU, http://wamu.org/projects/paytoplay (last visited July 24, 2017); Aaron C. Davis, *D.C. Council report: Bowser administration favored top donor in contracting*, WASH. POST (June 14, 2017), https://www.washingtonpost.com/local/dc-politics/dc-council-report-bowser-administration-favored-top-donor-in-contracting/2017/06/14/5799a712-5134-11e7-b064-828ba60fbb98_story.html; Aaron C. Davis, *Watchdog calls for review of D.C. mayor's campaign contributions*, WASH. POST (Mar. 9, 2017), https://www.washingtonpost.com/local/dc-politics/watchdog-calls-for-review-of-dc-mayors-campaign-contributions/2017/03/09/3a054804-0504-11e7-b1e9-a05d3c21f7cf_story.html; Aaron C. Davis and Peter Jamison, *Fired D.C. employee claims Bowser administration tried to steer contracts to donor*, WASH. POST (Dec. 1, 2016), https://www.washingtonpost.com/local/dc-politics/fired-dc-employee-claims-bowser-administration-tried-to-steer-contracts-to-donor/2016/12/01/c04f887a-b7de-11e6-959c-172c82123976_story.html; Mike DeBonis & Ann E. Marimow. *Jeffrey Thompson is said to have secretly pumped $100,000 into 2008 Brown campaign*, WASH. POST (Feb. 7, 2014), https://www.washingtonpost.com/local/dc-politics/jeffrey-thompson-is-said-to-have-secretly-pumped-100000-into-2008-brown-campaign/2014/02/07/95b2e16c-903a-11e3-b227-12a45d109e03_story.html; Aaron C. Davis & Mike DeBonis, *D.C. Council censures Marion Barry for taking cash payments from city contractors*, WASH. POST (Sept. 17, 2013), https://www.washingtonpost.com/local/dc-politics/dc-council-censures-marion-barry-for-taking-cash-payments-from-city-contractors/2013/09/17/02f22d06-1fba-11e3-b7d1-7153ad47b549_story.html; Mike DeBonis, *Michael A. Brown is charged with bribery, will plead guilty*, WASH. POST (June 7, 2013), https://www.washingtonpost.com/local/dc-politics/michael-a-brown-is-charged-with-bribery/2013/06/07/20684876-cf7c-11e2-8845-d970ccb04497story.html; Mike DeBonis & Nikita Stewart, *Vast 'shadow campaign' said to have aided Gray in 2010*, WASH. POST (July 10, 2012), https://www.washingtonpost.com/local/dc-politics/gray-donor-admits-to-scheme-to-funnel-illegal-campaign-contributions/2012/07/10/gJQA0b5DbW_story.html.

[3] D.C. Code § 2-352.02; *see* Madden, *supra* note 2 (stating that no other state-level legislature has similar authority over contracts).

[4] Findings & Recommendations of Mary M. Cheh on the Department of General Services Contracting and Personnel Management, at 41-42 (June 14, 2017), http://marycheh.com/wp-content/uploads/2017/06/2017-06-14-DGS-Contracting-and-Personnel-Report-by-Mary-Cheh-no-attachments.pdf.

a. CLC supports the Committee's plan to move forward with a bill that includes provisions from both the Attorney General's bill and Councilmembers White's and Gray's bill.

The two pay-to-play bills before the Committee include important provisions that are critical to an effective pay-to-play law. The bills are complementary, and both are thoughtfully designed to address the potentially corrupting influence of campaign contributions from those seeking to do business with the District. CLC supports Chairman Allen's approach of incorporating provisions of Attorney General Racine's bill and Councilmembers White's and Gray's bill into one bill for the Council's consideration.[5] As the Committee considers what it will include in the legislation it submits to the Council, we recommend that the Committee include the following provisions:

- A broader conception of "business dealings": In addition to contracts, the Attorney General's bill would cover grants, tax abatements, and the sale or lease of buildings or land.[6] Covering tax abatements and the sale and use of land and real estate is a more comprehensive approach that reflects the numerous ways the District can engage in business dealings and, accordingly, the individuals and entities on the other side of the business dealing that should be covered by a pay-to-play law.

- Prohibit contributions from high-level employees: In addition to prohibiting contributions from entities contracting with the District, it is important to cover high-level employees of those entities as well. Councilmembers White's and Gray's bill covers officers, directors, and principals with a controlling interest.[7] Including high-level employees in the contribution ban, and establishing a lower contribution limit for their immediate family members, prevents entities doing business with the city from funneling money through their employees and employees' family members. Without this additional coverage, an entity could still curry favor with District officials through contributions from individuals closely associated with the entity.

- Establish a "doing business" database: When New York City enacted its comprehensive pay-to-play law in 2007, the city also established a "doing business" online database to help contributors and campaigns comply with the law.[8] The database lists all individuals and entities subject to New York City's lower contribution limit for individuals and entities that are doing business with the city. The database allows candidates to determine whether contributors are subject to pay-to-play restrictions and provides the New York City Campaign Finance Board with the tools it needs to properly administer and enforce

---

[5] Peter Jamison, *D.C. Council bills take aim at pay-to-play*, WASH. POST (July 8, 2017), https://www.washingtonpost.com/local/dc-politics/dc-council-bills-take-aim-at-pay-to-play/2017/07/08/e323a950-633a-11e7-a4f7-af34fc1d9d39_story.html.

[6] D.C. Council Bill No. 22-0008 § 201(7).

[7] D.C. Council Bill No. 22-0051 § 2(f).

[8] The City of New York, Doing Business Search, https://www1.nyc.gov/dbnyc/ (last visited July 23, 2017).

the law.[9] Establishing a doing business database would also help address the concern raised by Councilmember Silverman about how candidates would know who is prohibited from giving to them and, thus, how candidates could ensure they are accepting contributions in compliance with pay-to-play provisions. If there is a publicly available database of entities and individuals prohibited from contributing to D.C. candidates, candidates will have the tools they need to comply with the law.

b. Courts have recognized that contractors' campaign contributions present a heightened risk of corruption.

In the context of government contracting, courts have long recognized that a contractor's campaign contributions, or other forms of personal or campaign support, to officials with authority over contracts raise heightened corruption concerns. Indeed, Congress has prohibited federal contractors and prospective contractors from making political contributions to federal candidates for more than seventy-five years.[10] A growing number of states and localities similarly have taken steps to restrict political contributions from government contractors. At least seventeen states have limits or prohibitions on campaign contributions from current and/or prospective government contractors or licensees.[11] Various municipalities, including New York City and Los Angeles, also have pay-to-play restrictions on the books.[12]

Courts have approved reasonable restrictions on the campaign-related spending of entities doing business with the government. In fact, the constitutionality of the federal contractor contribution ban — which bars contractors from contributing "directly or indirectly" to federal candidates, political parties or PACs — was recently upheld by the en banc D.C. Circuit.[13] The court recognized two governmental interests sufficient to justify the ban: preventing the actuality and appearance of corruption,[14] and preventing "interference with merit-based public administration"

---

[9] It is worth noting the thorough explanatory materials produced by the New York City Campaign Finance Board (NYCCFB) to help candidates comply with the law. If a candidate accepts a contribution in violation of New York City's doing business restriction, the NYCCFB provides guidance regarding how the candidate will be informed of the violation and how to address the violation. *See Doing Business FAQs*, N.Y.C. Campaign Fin. Bd., http://www.nyccfb.info/candidate-services/doing-business-faqs/ (last visited July 24, 2017).

[10] *See Wagner v. FEC*, 793 F.3d 1, 3 (D.C. Cir. 2015).

[11] Cal. Gov't Code § 84308(d); Conn. Gen. Stat. § 9-612(f)(1)-(2); Haw. Rev. Stat. § 11-355; 30 Ill. Comp. Stat. 500/50-37; Ind. Code §§ 4-30-3-19.5 to -19.7; Ky. Rev. Stat. Ann. § 121.330; La. Rev. Stat. Ann. §§ 18:1505.2(L), 27:261(D); Mich. Comp. Laws § 432.207b; Neb. Rev. Stat. §§ 9-803, 49-1476.01; N.J. Stat. Ann. § 19:44A-20.13 to -20.14; N.M. Stat. Ann. § 13-1-191.1(E)-(F); Ohio Rev. Code § 3517.13(I) to (Z); 53 Pa. Cons. Stat. § 895.704-A(a); S.C. Code Ann. § 8-13-1342; Vt. Stat. Ann. tit. 32, § 109(B); Va. Code Ann. § 2.2-3104.01 (amended by Va. Acts 2013, Ch. 583 (eff. July 1, 2014)); W. Va. Code § 3-8-12(d).

[12] N.Y.C. Admin. Code §§ 3-702(18), 3-703(1-a)-(1-b); L.A., Cal., City Charter § 470(c)(12).

[13] *See Wagner*, 793 F.3d at 34.

[14] *Id.* at 3.

to ensure that contracting "depend[s] upon meritorious performance rather than political service."[15]

The Second Circuit has upheld similar laws, including New York City's regulation of contributions from entities "doing business" with the city.[16] That upheld law is expansive, covering persons who have received or are seeking contracts, franchises, concessions, grants, pension fund investment contracts, economic development agreements, or land use actions with the city.[17]

II. The anti-coordination bills before the Committee would help ensure that independent expenditures are "totally," "wholly," and "truly" independent of candidates.

The Campaign Legal Center is keenly aware that the vast amount of money spent on independent expenditures has affected campaigns at all levels of government. The U.S. Supreme Court's decision in *Citizens United* and subsequent court decisions allowed corporations and labor unions to make unlimited expenditures to influence elections so long as the expenditures are actually independent of candidates.[18] As the amount of unlimited outside spending has increased, the legal lines separating "independent" and "coordinated" spending have become critically important. Candidates, their supporters, and their lawyers have pushed the boundary of what constitutes an "independent" expenditure to absurdity. Without effective regulation of coordinated spending between candidates and their supporters, candidate contribution limits are meaningless. For example, if a D.C. mayoral candidate can solicit a $50,000 contribution from a supporter to a so-called "independent" expenditure committee supporting that candidate, then the District's $2,000 limit on contributions to mayoral candidates is severely undermined. Such candidate involvement in political fundraising and spending is precisely the type of corrupting scenario that contribution limits are intended to prevent.

Consistent with the Supreme Court's pronouncement in *Citizens United* that independent expenditures cannot be constitutionally limited because they "do not give rise to corruption or the appearance of corruption,"[19] *non*-independent — i.e., coordinated — expenditures may permissibly be limited. The Supreme Court has repeatedly emphasized the degree of independence that is necessary to prevent outside spending from "undermin[ing] contribution

---

[15] *Id.* at 8-9.

[16] *Ognibene v. Parkes*, 671 F.3d 174 (2d Cir. 2011); *see also Green Party of Conn. v. Garfield*, 616 F. 3d 189 (2d Cir. 2010) (upholding Connecticut's ban on contributions by contractors and their principals).

[17] *Ognibene*, 671 F.3d at 179.

[18] *See Citizens United v. FEC*, 558 U.S. 310, 360 (2010) ("By definition, an independent expenditure is political speech presented to the electorate that is not coordinated with a candidate.").

[19] *Id.* at 357.

limits".[20] Only "totally independent,"[21] "wholly independent,"[22] and "truly independent"[23] expenditures qualify.

Since *Buckley v. Valeo*, the Court has recognized that, to be effective, any limitations on campaign contributions must apply to expenditures made in coordination with a candidate, so as to "prevent attempts to circumvent the [campaign finance laws] through prearranged or coordinated expenditures amounting to disguised contributions."[24] To this end, the Court upheld that contribution limits may include not only contributions made directly to a candidate, but also "all expenditures placed in cooperation with or with the consent of a candidate" or his campaign committee.

But the *Buckley* Court's analysis relied on the assumption that "independent expenditures" would be "made *totally* independently of the candidate and his campaign."[25] It explained that, unlike contributions, *totally* independent expenditures "may well provide little assistance to the candidate's campaign and indeed may prove counterproductive."[26] The Court opined further that the absence of coordination "undermines the value of the expenditure to the candidate" and "alleviates the danger that expenditures will be given as a quid pro quo for improper commitments from the candidate."[27]

The Court echoed *Buckley*'s broad language regarding coordination in later decisions on the topic. In *Colorado Republican Federal Campaign Committee v. FEC*, the Court held that a radio advertisement aired by the Republican Party attacking a Democratic senatorial candidate would not be treated as coordinated because the ad was developed "*independently* and not pursuant to any general or particular understanding with a candidate."[28] Then, in *Colorado II*, the Court—again in the context of party spending—noted that independent expenditures are only those "without any candidate's approval (or *wink or nod*)."[29] Shortly thereafter, the Court again highlighted that the relevant "dividing line" was "between expenditures that are coordinated—and therefore may be regulated as indirect contributions—and expenditures that *truly* are independent."[30]

---

[20] *FEC v. Colo. Republican Fed. Campaign Comm.*, 533 U.S. 431, 464 (2001) ("*Colorado II*").

[21] *Buckley v. Valeo*, 424 U.S. 1, 47 (1976).

[22] *McConnell v. FEC*, 540 U.S. 93, 221 (2003).

[23] *Colorado II*, 533 U.S. at 465.

[24] *Buckley*, 424 U.S. at 47.

[25] *Id.* (emphasis added).

[26] *Id.* (emphasis added).

[27] *Id.*

[28] 518 U.S. 604, 614 (1996) ("*Colorado I*").

[29] 533 U.S. at 442, 447 (emphasis added).

[30] *McConnell*, 540 U.S. at 221 (emphasis added).

The anti-coordination provisions in the Attorney General's bill would help maintain a meaningful line between groups making independent expenditures and candidates. The bill establishes several scenarios that, if satisfied, would create a rebuttable presumption that a campaign expenditure was coordinated with a candidate, including:

- If the campaign provides information about its needs or plans to the person making the expenditure;[31]
- If the campaign and the person making the expenditure share a common vendor providing campaign or fundraising strategy;[32] or
- If the group making the expenditure is run by a candidate's immediate family member or former high-level staff.[33]

These presumptions are reasonable, targeted responses to the kinds of coordination we have seen between candidates and so-called independent spenders. Connecticut and California have adopted rebuttable presumptions as a means maintaining a meaningful line between independent and coordinated expenditures.[34]

---

[31] Robert Maguire & Will Tucker, *How Carly Fiorina's Super PAC Mirrors Her Campaign*, TIME (Nov. 19, 2015) http://time.com/4120431/carly-fiorina-super-pac/.

[32] Ashley Balcerzak, *Candidates and their Super PACs sharing vendors more than ever*, OPENSECRETS.ORG (Dec. 21, 2016), https://www.opensecrets.org/news/2016/12/candidates-super-pacs-share-vendors/.

[33] A super PAC supporting Mayor Muriel Bowser was established by her former campaign treasurer Ben Soto. Aaron C. Davis, *Divided D.C. Council takes aim at Mayor Bowser's super PAC*, WASH. POST (Oct. 20, 2015), https://www.washingtonpost.com/local/dc-politics/divided-dc-council-takes-aim-at-mayor-bowsers-super-pac/2015/10/20/0a24289a-7765-11e5-a958-d889faf561dc_story.html. Although the super PAC was shuttered shortly after its formation, Mr. Soto's statement that the super PAC's funds would be used to "help reelect allies or unseat council members who do not see eye-to-eye with Bowser" is a prime example of the type of sway that large "independent" expenditures, and the threat of such expenditures, are intended to have on elected officials. *Id.*

[34] *See* Conn. Gen. Stat. § 9-601c(b); Cal. Code Regs. tit. 2, § 18225.7(d). Similarly, New York City's Campaign Finance Board uses a "non-exhaustive" list of factors to assess whether an expenditure is "independent" of a candidate's campaign. N.Y.C. Campaign Fin. Bd. Rule 1-08(f)(1). If the Board finds any of the listed factors are present, the burden of production shifts to candidates or independent spenders to provide evidence demonstrating that coordination did not occur. *Id.* 1-08(f)(2).

III. Conclusion

For these reasons, the Campaign Legal Center supports the Campaign Finance Transparency and Accountability Act of 2017 and the Comprehensive Campaign Finance Reform Amendment Act of 2017, and we urge the Committee to take favorable action on these important pieces of legislation. We appreciate the opportunity to submit these comments.

Sincerely,

/s/
Adav Noti
Senior Director of Trial Litigation & Strategy

/s/
Catherine Hinckley Kelley
Director of Policy & State Programs

Monday, July 10, 2017

Testimony of Aquene Freechild, Campaign Co-Director, Democracy Is For People Campaign, Public Citizen, before the DC Council Committee on Judiciary and Public Safety

Re: Testimony In Support of B22-0008, B22-0032, B22-0051 and B22-0107

Chairman Allen and Members of the Committee on Judiciary and Public Safety,

Public Citizen has over 2000 members and supporters in the District of Columbia. Our members and key staff have long been engaged in organizing for transparency, accountability and public safety in the District. Our overarching goal is to ensure that all citizens are represented in the halls of power.

We are founding members of the DC Fair Elections coalition working to put every day District residents at the center of campaigning in the District. We see the bills before you today as a positive step and a key complement to the DC Fair Elections bill. The DC Fair Elections small donor empowerment bill heard two weeks ago would open up new funding sources fueled by every day District residents, offering a replacement for funds that would be no longer available from corporate sources if Council enacts pay to play legislation.

We thank Chairman Allen and the Committee for looking seriously at a package to address the perception of pay-to-play in DC. It is a powerful and needed step.

In past hearings, I've heard Councilmembers express frustration that the public's perception of corruption on the part of the Council is slow to change. Certainly the scandal with Fort Myer in the Mayor's office as well as the acceptance of illegal campaign contributions by both the Mayor's 2014 Campaign and by Councilmember Todd's campaign, as well as transparency and accountability problems on the part of Todd, have continued to raise public concerns.

But as with any major policy problem, no single bill can rebuild the public's trust or cure a complex problem immediately. There's been a continued flow of scandals in the District, no single piece of legislation can address them all. Taking serious and concerted action on pay to play and related ethics issues is the best possible way to show progress on the part of the council, and further distinguish most members of the Council from those individuals who are running into trouble.

I'd like to highlight in particular the importance of limiting the contributions of family members of contractors. We applaud the broad definition of contractors in the bill introduced by Councilmembers Gray and Trayon White Sr. and strongly encourage the Committee to make sure it's part of any package bill.

Last year, Public Citizen issued a report called District Development on the amount of money coming from corporations, their executives and family

members in the early primaries. Giving in the early primaries was dominated by construction and real estate corporations, which gave about 40% of all contributions, but the extent to which this is true only becomes clear if executive and family giving is included.

We'll use Fort Myer Corporation, one of the top contributors in the last cycle and the subject of multiple scandals over the years, as an example. Three months ahead of the 2016 primary, Fort Myer Corporation an affiliated corporation and one LLC gave $3,000 to various candidates. However, Fort Meyer's total giving at that point was over $20,000 if executives, family members and family trusts are included. Fort Myer's two top executives, their immediate families and two family trusts gave an additional $17,700 to the campaigns of Jack Evans, LaRuby May, Vincent Orange, Yvette Alexander and Brandon Todd in the early 2016 primary. The direct corporate giving of this prominent contractor was a small fraction of their total giving.

A serious pay to play bill must include not only the executives and officers of a corporation and their family members, but also disallow use of associated family trusts if possible.

Thank you very much.

DCHA
District of Columbia
Hospital Association

1152 15th Street, NW • Suite 900 • Washington, DC 20005-1723
Tel: 202/682-1581 • Fax: 202/371-8151 • Web: www.dcha.org

July 10, 2017

Chairman Charles Allen
Committee on the Judiciary and Public Safety
Council of the District of Columbia
1350 Pennsylvania Avenue, NW, Suite 109
Government of the District of Columbia
Washington, D.C. 20004

Dear Chairman Allen,

This letter is regarding the "Campaign Finance Transparency and Accountability Amendment Act of 2017" and the "Comprehensive Campaign Finance Reform Amendment Act of 2017." As you know, these bills have been referred to the Committee on the Judiciary and Public Safety and will receive a public hearing today. The District of Columbia Hospital Association (DCHA) has concerns regarding sections of these bills.

Regarding the "Campaign Finance Transparency and Accountability Amendment Act of 2017" we are concerned with "Title II – Preventing Pay-to-Play in Business Dealings with the District." Specifically, "Sec. 202, Eligibility to Engage in Business Dealings with the District."

Summary of Section: An individual or organization that contributes or solicits a contribution to a candidate or elected official, their campaign committees, or organizations or individuals closely tied to the official will for two years be banned from engaging in the following business dealing with the District:

1. A grant valued at $100,000 or more;
2. A tax abatement of $100,000 or more;
3. An agreement for the purchase, acquisition, or sale of land;
4. A contract of $100,000 or more.

Comment: DCHA appreciates the spirit of this legislation regarding fair and equitable elections and governance in the District of Columbia. However, the legislation as drafted fails to focus on transparency. We believe that the best way to tackle the aims of this legislation is not to prevent contributors from being able to receive contracts or grants for exercising political expression but to increase transparency. The District already has robust ethics and contribution reporting requirements. We believe if the Council has identified additional problems that it should look at strengthening current reporting requirements.

Further, this legislation contains a glaring loophole. While contributions by individuals and organizations have negative repercussions, there are no additional limitations being placed on organized labor or advocacy groups. This is not meant as an attack on labor. Rather, it shows that while one party is being silenced another still can participate in the political process to a greater extent.

At a minimum if none of our other suggestions are accepted, we recommend raising the legislation's grant or contract threshold to $1,000,000 to provide more leeway to contractors who provide services to the District and wish to participate in the political process.

Regarding the "Comprehensive Campaign Finance Reform Amendment Act of 2017" we are concerned with "Section 334a, Covered Contractor Campaign Restrictions."

Summary of Section: The District and its representatives may not enter business dealings with covered contractors if:

1. They seek or hold contracts or grants with the District worth $250,000 or more;
2. Solicited or made any contribution or expenditure to prohibited recipients who could be involved in influencing the award of a contract or grant.

Additionally, immediate family members of covered contractors and their officers, directors, and principals may not make contributions of $300 per person per election.

Comments: Again, DCHA appreciates the spirit of this legislation regarding fair and equitable elections and governance in the District of Columbia. However, our concerns expressed above for the "Campaign Finance Transparency and Accountability Amendment Act of 2017" still hold. Again, we recommend focusing on strengthening current reporting requirements if gaps exist.

DCHA looks forward to continuing to work with the Committee on this issue, which is important to our hospitals and patients. If you have questions, please feel free to reach out to me at (202) 289-6212 or jpalmer@dcha.org.

Sincerely,

Justin Palmer
Vice President, Government Relations

CC: Councilmember Bonds, Councilmember Cheh, Councilmember Gray, and Councilmember Grosso

Sarah Livingston
1616 Marion St. NW #334 • Washington, DC 20001
July 24, 2017

Mr. Charles Allen, Chairman
DC Council Committee on Judiciary and Public Safety
1350 Pennsylvania Ave. NW
Washington, DC 20004

Dear Chairman Allen,

This is my testimony for the record on the four bills that were the subject of the Committee's July 10, 2017 hearing—B22-0032, B22-0107, B22-0008, and B22-0051.

Having watched the hearing, and done a little poking around on the websites of the Office of Contracting and Procurement, the Office of Campaign Finance, the D.C. Code, Title 1, Government Organization, Chapter 11A. Subchapter III, Campaign Finance, as well as reading various articles in the Washington Post, including its editorials, Washington Times, and Washington City Paper, I've come to think that B22-0008, the Campaign Finance Transparency and Accountability Amendment Act of 2017 comes the closest to effectively addressing the concerns citizens have that there is a "pay-to-play" culture in DC's political life.

It is aimed at exactly the kinds of things businesses can do under current law that so easily give the impression that corporations, lobbyists and the wealthy are, even if not *expecting* preferential treatment for their donations, throwing the principle of one person-one vote, so fundamental to our democracy, out of balance.

The bill seeks to eliminate as much as possible any confusion, where so much misunderstanding occurs, about the connection between those who do business with the DC government and those who contribute to campaigns. That, to me, gets right to the heart of the matter, both the "perception" of wrongdoing and the reality of weaknesses or "loopholes" in the current law.

I think it's important too that candidates be subjected to penalties for taking *from* donors that give outside the law in order that the balance between business/contract and free and fair elections be maintained. It can't all be on the businesses and their allied interests. This would likely require campaign treasurers to need a simple way of checking and that could be done by having the OCF maintain a list of any businesses that have been found ineligible for a contract on its website like the OCP does with its list of barred companies.

In addition, I think it is very important that candidates do not use anyone's, especially, a minor's, likeness without permission in their campaign materials, and for that reason, I support the provision in B22-0107, the Campaign Finance Reform Amendment Act of 2017 that would require candidates to obtain that permission.

With regard to that bill's other provision seeking that candidates retire all debts within six months of an election: I think something along the lines of wrapping up one campaign committee, including its debts, *before* the next campaign committee is set up is more realistic and would possibly accomplish the same thing, if that is to prevent one campaign committee from overlapping into the next election, which I think should be avoided. Campaign committees are temporary organizations and they should disappear as soon after the election as possible so long as it is properly done.

Somewhat relatedly, I would like to know *before* a candidate elect is sworn into office if all is in order with their campaign committee rather than finding out afterwards when it becomes much harder to do anything about it. We the People should know if the person being sworn in has run an honest, lawful campaign, sooner, not later. I'm willing to pay a few more people at OCF permanently or temporarily for the peace of mind of knowing that an elected individual has at least passed a quick review of whether or not their campaign committee operated by the rules.

Judging by the Office of Campaign Finance's web site, it does a lot and some of it, very well. In particular, its Biennial Reports are very highly detailed. Nevertheless, in my experience, the office doesn't have much of a presence outside its appearance in the press when something is being questioned, and it appears to work in a way that lags well behind the election process. It seems content to, in the very gentlest way, regulate *after* the fact rather than providing clearer guidance at the beginning of the process as to what's allowable and what isn't. I suspect that way of working has mislead some candidates or their campaign treasurers that they have all the time in the world to settle everything up. While I am all for every qualified citizen not being discouraged from running for an office because the OCF is too aggressive in its work or the campaign laws as a whole are too complex, I also think that once a person commits themselves to becoming a candidate, OCF needs to orient them to the rules and the expectation that they will be followed a little more energetically.

Other than the submission of a complaint from someone to the agency, it is not clear what triggers an investigation or an audit, or whether audits are routine or occasional.

I would also like the OCF to include in its reports, or issue separate reports on, the number and nature of violations, complaints received, audits conducted, investigation made and their statuses. We need that information to be collected in order to have some sense of where the problems in the law are so that we are not flying blind when considering proposed reforms or when the Council feels pressured to "do something" in the face of media reports that often defy our belief in innocent until *proven* guilty.

Lastly, Mr. Chairman, the section of the Code in quotation marks below is very opaque. This is in Title 1, Government Organization, Chapter 11A Subchapter III, Part B, §1-1163.16. Candidates Liability for Financial obligations inured by a committee.

"No provision of this part shall be construed as creating liability on the part of any candidate for any financial obligation inured by a committee.

For purposes of this part, and subchapter 1 of Chapter 10 of this title [§ 1-1001.01 et seq.], actions of an agent acting for a candidate shall be imputed to the candidate; provided, that the actions of the agent may not be imputed to the candidate in the presence of a provision of law requiring a willful and knowing violation of this part or Subchapter 1 of Chapter 10 of this title [§1-1001.01 et seq.], unless the agency relationship to engage in the act is shown by clear and convincing evidence."

In conclusion, I would like to see this round of reforms be as thorough, comprehensive and complete as they can be, with the priority on drawing the clearest of boundaries separating contracting and business matters from our electoral process including campaign finance. And once they are in place, to allow them to operate for at least one four year period, in order to more clearly see where any problems are. Constant reform in these laws is problematic in itself creating a shuffle in which true accountability and transparency get lost. I prefer laws that are understandable and familiar to *every*one, consistently applied and monitored for adherence and effectiveness.

With appreciation for this opportunity to comment,

Sarah Livingston, a regular voter, two-time ANC candidate who didn't win, and not a lawyer.

Testimony before the Hon. Charles Allen
Council of the District of Columbia Committee on Judiciary and Public Safety
Hearing
RE: Campaign Finance Transparency and Accountability Amendment Act of 2017 (B22-0008), Comprehensive Campaign Finance Amendment Act of 2017 (B22-0051), Clean Elections Amendment Act of 2017, (B22-0032), and Campaign Finance Reform Amendment Act of 2017 (B22-0107)
July 10, 2017
Testimony for the Record submitted by Abigail C. Nichols, July 24, 2017

Chairman Allen and members of the Council, thank you for your work on legislation this term to ensure good government for the District of Columbia.

I write after listening to the testimony offered at the July 10, 2017, Judiciary and Public Safety Committee hearing on four bills concerning election processes now before the Council.

I fully support controls on campaign contributions by businesses who contract with the DC government. In addition I want to emphasize that campaign donations by contractors and criminal corruption are not the only campaign finance problems needing attention. Soft corruption resulting from campaign donations by other business interests is, in my experience, an equally important source of resident disenchantment with their government. Thank you for the attention being given to all forms of corruption of the democratic process by these bills and by the DC Fair Elections bill which is also before the Council.

At the July 10 hearing there was discussion of the negative effects of campaign donations by contractors on subsequent government decisions and the subsequent public perception of corruption of government. There was testimony that there is little penalized corruption. While a few egregious examples were cited in response, some may take from the hearing an erroneous impression that if the public knew how few convictions there are, the public would be less concerned. No. Not at all. Soft corruption is just as corrupting as criminal corruption. The cynicism about politics that my neighbors and I constantly fight against in ourselves comes other kinds decisions by the executive and legislative branches of our DC government that affect us more directly, specifically alcohol regulation and real estate development.

I have followed alcohol regulation since 2009 when my neighbors and I found ourselves increasingly disturbed by nightlife noise. Beginning in 2013, four years as ANC Commissioner introduced me to development problems as they affected constituents.

Over time I have concluded that the labyrinthine laws that govern alcohol licensing and the consistent overriding of laws governing development against resident wishes can only be explained by money trumping voters when campaign donors' wishes are at odds with voters' wishes. Good things happen when both are aligned, but bad things happen to residents when they are not.

The structure of law in alcohol licensing implies protection of the peace, order, and quiet of residents, but in fact, the government licenses excess of noise from outdoor music and patrons unless residents mount resistance. Resident, and even business, efforts to protect themselves are governed by a tortuous process that is hard to understand and expensive in time and money to pursue. Any successes are overturned by enforcement procedures that systematically find no violations and/or lack effective penalties. Furthermore, there is no precedent in these outcomes that can be applied proactively. Residents of the Palladium Condominium and our other neighbors have filed at least 14 alcohol license protests. In all cases our only aim was to stop late night outdoor music that exceeds the limits of the law. Why should we have to mount the same battle time and time again? As alcohol businesses open in new areas of the

city, others go through what we have gone through. Residents with little experience with alcohol legislation and administrative procedures have to repeat our experience and fight the same fight over and over again to prevent 3 am music invading their bedrooms. Efforts to change the law governing alcohol licensing that residents want go nowhere while legislation that business wants sails through.

On another front, residents watch as developers' real estate projects get permission for projects that are larger than allowed by law and regulation. Residents often support allowable zoning variances, but then see their objections ignored when they do find that what developers are asking for is too big for their neighborhood. Construction permits are another problem. My constituents were disturbed by 24/7 demolition for a large project next door in spite of a law that says such permits can only be issued in an emergency. It was clearly a planned emergency abetted by the DC government and the Administrative appeals process which is useless when violation has already been committed. "The issue is moot."

While businesses, of course, have important information and perspectives for the Council to take into account, the fact that business is able to muster more testimony and give more money to campaigns than residents does not mean that their views trump those of residents. The real issue at hand is democracy in the District and the various means by which residents get honest government that responds to their priorities. Low voter turnout in primary elections is one indicator that voters aren't as engaged in local government as is necessary to ensure residents and not large campaign donors with interests other than the public good call the shots.

The bills before the Council offer a way to enhanced resident empowerment. I see the enthusiasm with which residents sign a petition calling for public campaign financing. While grateful for the help of national organizations that know so much about how to ensure good government, good government reform is a DC issue with DC stakeholders are front and center of this effort.

Passage of the four bills at issue here before the Council with resources for proper implementation will go a long way towards renewing my confidence that I can make a difference in my community. It has been discouraging to watch my work and that of others seemingly come to nothing in the individual policy areas in which I am involved. It is so encouraging to be part of the DC Fair Elections Coalition and witness the progress we are making with the DC Council. By passing the essentials of the four bills before the Council at this hearing and the DC Fair Elections bill the Council is doing the right thing and will earn the respect of your constituents.

Thank you for your consideration of my perspectives on this matter.

JULYAN & JULYAN

David S. Julyan

Committee on Judiciary & Public Safety
July 10, 2017

Chairman Allen and members of the Committee, I'm David Julyan and have been actively involved with political campaigns and working for and with elected officials for 45 years. I am a registered lobbyist in the District.

What are the core issues that need to be addressed to bring sanity to the District's current ethical swirl of campaigns, contributions, contracts and lobbying?

I would propose there are two fundamental issues to address:
First, reasonable and appropriate disclosures.
Second, a level playing field where the same rules apply to all.

Reasonable and appropriate public disclosure of political contributions and contacts will go a long way toward curing the problems. If all relevant information on money and contact is made easily accessible to the public, public officials can make their decisions under those bright lights and then be held accountable.

Reasonable and appropriate public disclosure of political contributions should be part of the District's contracting process. A bid or response submission should include a separate exhibit that identifies the political contributions made by the company and its principals. If an awarded contract requires Council review, that exhibit should be updated when the matter is before the Council. Let everyone see what is going on.

Reasonable and appropriate disclosure of lobbying is also straight forward. Today's lobbying reporting system is neither reasonable nor appropriate, but there a simple fix.

BEGA currently requires semi-annually itemizing every contact with a public official. This is confusingly uninformative and inconsistently reported. Rather, lobbyist should be required to make quarterly filings that simply and clearly identifies their issues, positions and the public officials they contacted. That's the key information the public needs to know and it's undeniable that if that information was easily available it would ensure everyone could see who was communicating with whom and about what.

1100 G Street, NW • Suite 655 • Washington, DC 20005 • (202) 367-0800 • FAX (202) 367-0801

BEGA defines lobbying as communicating directly with any official in the legislative or executive branch with the purpose of influencing any legislative action or an administrative decision and BEGA defines a lobbyist as anyone who is compensated for lobbying.

Today, there are many who fall within both of BEGA's definitions, but who do not register and whose compensated efforts to influence public decisions remain in the shadows. That is wrong.

Anyone who is compensated for attempting to influence a public decision should be required to file quarterly. To be specific, if a think tank, nonprofit, advocacy group, labor union, professional association, etc. pays someone to contact public officials to attempt to influence a decision they and their lobbyist should file. Today, that's not the case and it creates both an uneven playing field and disguises both who is actually getting paid to influence District decisions and to whom public officials are listening. It would not include, of course, citizens or volunteers who engage in the process, they aren't paid.

Finally, if the Council is truly serious about this matter, you should consider requiring elected and senior public officials to make the same quarterly disclosure about contacts with lobbyists. It isn't that difficult to keep track of who communicated with whom and on what issues. Take this opportunity to lead by example. If elected officials have to file, the statute's definition of "reasonable and appropriate" is more likely to be grounded in reality.

My proposals will not enamor me to many of my colleagues, this Council or Administration. However, after over four decades in this arena, I am convinced it is the proper path to follow.

I've reviewed the bills before the committee and respectfully ask you to consider carefully both the legality and the appropriateness of proposals that restrict who can engage in the political process.

To propose that a contribution to a political party or political action committee by a family member of a corporate officer should be the basis for prohibiting that company from bidding on a District contract defies reasonableness, fairness and perhaps the Constitution.

There is a line that separates legitimate participation in the political process and "pay to play." I think it's a pretty clear line; one I've had no trouble seeing for 45 years. You know it ... if you can see it. I believe if you focus on a level playing field with reasonable and appropriate disclosures, you will get all the relevant information into the public light and that's the arena where it belongs.

Trust the voters to take it from there.

These are my views and not necessarily those of any of my clients.

Thank you.

OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS
FRANK D. REEVES MUNICIPAL BUILDING
SUITE 420, 2000 14TH STREET, N.W.
WASHINGTON, D.C. 20009
(202) 671-0550

BEFORE THE COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

COMMENTS OF THE OFFICE OF CAMPAIGN FINANCE

ON

BILL 22-0032, THE "CLEAN ELECTIONS AMENDMENT ACT OF 2017".

BILL 22-0107, THE "CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2017".

BILL 22-0008, THE "CAMPAIGN FINANCE TRANSPARENCY AND ACCOUNTABILITY AMENDMENT ACT OF 2017".

JULY 10, 2017

GOOD MORNING CHAIRPERSON CHARLES ALLEN AND MEMBERS OF THE COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY. I AM CECILY E. COLLIER-MONTGOMERY, DIRECTOR OF THE OFFICE OF CAMPAIGN FINANCE. SEATED WITH ME TODAY IS WILIAM O. SANFORD, THE AGENCY GENERAL COUNSEL. THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY AND COMMENT ON THE VARIOUS BILLS INTRODUCED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA TO REFORM THE LOCAL CAMPAIGN FINANCE LAWS.

THE OFFICE OF CAMPAIGN FINANCE (OCF) IS ESTABLISHED WITHIN THE DISTRICT OF COLUMBIA BOARD OF ELECTIONS (THE "BOARD"). THE OFFICE IS RESPONSIBLE FOR THE ADMINISTRATIVE OPERATIONS OF THE BOARD PERTAINING TO THE CAMPAIGN FINANCE LAWS OF THE DISTRICT OF COLUMBIA. THE MISSION OF THE OFFICE IS TO ENHANCE THE CONFIDENCE OF THE RESIDENTS OF THE DISTRICT IN THE INTEGRITY OF THE ELECTION PROCESS AND GOVERNMENT SERVICE, BY MONITORING, AIDING THROUGH EDUCATION, AND ENFORCING COMPLIANCE WITH THE CAMPAIGN FINANCE LAWS.

DISCUSSION OF THE RECOMMENDED BILLS

BY WAY OF BACKGROUND, THE CAMPAIGN FINANCE ACT OF 2011, WAS MOST RECENTLY AMENDED BY D.C. LAW 20-79, THE "CAMPAIGN FINANCE REFORM AND TRANSPARENCY AMENDMENT ACT OF 2013" (THE "CAMPAIGN FINANCE REFORM ACT OF 2013"), EFFECTIVE FEBRUARY 22, 2014, AND MADE APPLICABLE JANUARY 31, 2015. THE CAMPAIGN FINANCE REFORM ACT OF 2013 ESTABLISHED MORE ROBUST RECORD KEEPING, REPORTING, AND DISCLOSURE REQUIREMENTS; MANDATED TRAINING AND THE ONLINE SUBMISSION OF FINANCIAL REPORTS; AND STRENGTHENED THE ENFORCEMENT PROCESS.

FOR THE MOST PART, THE PROPOSED LEGISLATION AS A WHOLE WILL COMPLEMENT THE EXISTING CAMPAIGN FINANCE LAWS AND OPERATE IN SYNC TO MORE EFFECTIVELY PREVENT THE EVASION OF THE DISCLOSURE REQUIREMENTS, AND THE CONTRIBUTION LIMITS AND PROHIBITIONS; AND WILL MAKE CAMPAIGN OPERATIONS MORE TRANSPARENT AND ACCOUNTABLE. AS A CONSEQUENCE, DISTRICT RESIDENTS WILL BE BETTER INFORMED OF THE SOURCES OF THE FLOW OF MONEY IN THE ELECTION PROCESS.

AT A MINIMUM, THE PROPOSED AMENDMENTS WILL INCREASE THE ENFORCEMENT AND AUDIT RESPONSIBILITIES OF THE OFFICE OF CAMPAIGN FINANCE WHERE NONCOMPLIANCE OR VIOLATIONS OF THE ACT OCCUR. IN THE FIRST INSTANCE, THE REVIEW OF THE REPORTS OF RECEIPTS AND EXPENDITURES MUST ENSURE COMPLIANCE WITH THE NEW REPORTING REQUIREMENTS AND PROHIBITIONS. HOWEVER, AS WILL BE MORE FULLY DISCUSSED, THE UPGRADE OF THE OCF E-FILING AND DISCLOSURE SYSTEM TO INCORPORATE THE NEW REPORTING REQUIREMENTS AND CONTRIBUTION LIMITATIONS IS CRITICAL TO THE FULL IMPLEMENTATION OF THE VARIOUS PROPOSALS.

BILL 22-0032, THE "CLEAN ELECTIONS AMENDMENT ACT OF 2017", WILL FURTHER DEFINE THE TERM "CONTRIBUTION" MADE TO A CANDIDATE OR POLITICAL COMMITTEE (D.C. OFFICIAL CODE § 1-1161.01 (10)(A)) TO SPECIFICALLY INCLUDE THE "COORDINATED EXPENDITURE"; REVISE THE CERTIFICATION STATEMENTS OF INDEPENDENT EXPENDITURE COMMITTEES (D.C. OFFICIAL CODE § 1-1163.13 (A) (2)), TO ALSO STATE THAT THE COMMITTEE "IS NOT CONTROLLED BY, HAS NOT COORDINATED WITH, AND HAS MADE NO CONTRIBUTIONS" OR

TRANSFER OF FUNDS TO ANY PUBLIC OFFICIAL OR CANDIDATE, ANY POLITICAL COMMITTEE, OR ANY POLITICAL ACTION COMMITTEE; AND PROHIBIT CONTRIBUTIONS TO A POLITICAL COMMITTEE OR A CONSTITUENT SERVICE PROGRAM FROM ANY PERSON OTHER THAN AN INDIVIDUAL (D.C. OFFICIAL CODE § 1-1163.33).

FROM A TECHNOLOGICAL VIEWPOINT, THIS BILL WILL REQUIRE THE REVISION OF THE CERTIFICATION TEXT OF THE E-FILING APPLICATION OF THE FINANCIAL REPORT OF THE INDEPENDENT EXPENDITURE COMMITTEE TO INCLUDE THE NEW STATEMENTS CONCERNING THE MAKING OF EXPENDITURES BY THIS FILER TYPE. FURTHER, THE IMPORT MODULE OF SCHEDULE A FOR THE FINANCIAL REPORTS OF BOTH THE CONSTITUENT SERVICES PROGRAM (OCF FORM 10) AND THE POLITICAL COMMITTEE (OCF FORM 16), INCLUDING THE SCREENS FOR THE PRINCIPAL CAMPAIGN, INAUGURAL, EXPLORATORY, TRANSITION, OR LEGAL DEFENSE COMMITTEE, WILL REQUIRE MODIFICATION TO ELIMINATE THE FOLLOWING CONTRIBUTOR TYPES: LABOR, BUSINESS, AND OTHER; AND THE SUB-CATEGORY, BUSINESS TYPE.

BILL 22-0107, THE "CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2017" WILL REQUIRE A CANDIDATE TO USE SURPLUS, RESIDUAL, OR UNEXPENDED CAMPAIGN FUNDS WITHIN SIX (6) MONTHS OF AN ELECTION TO RETIRE THE DEBT OF THEIR PRINCIPAL CAMPAIGN COMMITTEE (D.C. OFFICIAL CODE §1-1163.10A (2)). UNDER EXISTING LAW, A TIME FRAME IS ONLY SPECIFIED FOR THE RETURN OF SURPLUS FUNDS TO DONORS. THIS PROPOSAL WILL NOT AFFECT THE CONTINUING REQUIREMENT OF A COMMITTEE PURSUANT TO D.C. OFFICIAL CODE SECTION 1-1163.09 (10) TO REPORT ITS DEBTS AND OBLIGATIONS AFTER THE ELECTION UNTIL THE DEBTS AND OBLIGATIONS ARE EXTINGUISHED. THE BILL WILL ALSO REQUIRE THE CONSENT OF ANY INDIVIDUAL OTHER THAN A CANDIDATE WHOSE LIKENESS IS USED IN ANY CAMPAIGN LITERATURE, ADVERTISEMENTS, WEBSITES, OR SOCIAL MEDIA (D.C. OFFICIAL CODE § 1-1163.1).

THIS PROPOSAL WILL NOT REQUIRE THE UPGRADE OF THE E-FILING AND DISCLOSURE SYSTEM.

BILL 22-0008, THE "CAMPAIGN FINANCE TRANSPARENCY AND ACCOUNTABILITY AMENDMENT ACT OF 2017", WILL INCREASE THE CERTIFICATION REQUIREMENTS OF POLITICAL ACTION COMMITTEES AND INDEPENDENT EXPENDITURE COMMITTEES TO ADDRESS THE PROHIBITION AGAINST THE RECEIPT OF CONTRIBUTIONS SOLICITED BY "COVERED

CAMPAIGNS"; DESCRIBES SEVERAL CIRCUMSTANCES, ACTIVITIES, AND RELATIONSHIPS UNDER WHICH THE COORDINATION OF AN EXPENDITURE WITH A "COVERED CAMPAIGN" WILL BE PRESUMED; REQUIRES FINANCIAL REPORTING BY ANY INDIVIDUAL WHO MAKES INDEPENDENT EXPENDITURES IN EXCESS OF $50 IN THE AGGREGATE AND THEIR CERTIFICATION THAT THE EXPENDITURE WAS NOT COORDINATED WITH A "COVERED CAMPAIGN"; CREATES GREATER DISCLOSURE REQUIREMENTS FOR ORGANIZATIONS OTHER THAN COMMITTEES THAT MAKE INDEPENDENT EXPENDITURES IN AN AGGREGATE AMOUNT IN EXCESS OF $500; REQUIRES POLITICAL ACTION COMMITTEES TO ESTABLISH SEGREGATED ACCOUNTS FOR THE RECEIPT OF CONTRIBUTIONS FROM WHICH TO MAKE CONTRIBUTIONS TO CANDIDATES, AND TO DISCLOSE THE RECEIPTS ALLOCATED TO THAT ACCOUNT; AND PROHIBITS THE SOLICITATION OF DONATIONS BY "COVERED CAMPAIGNS" TO ANY INDEPENDENT EXPENDITURE COMMITTEE OR POLITICAL ACTION COMMITTEE.

FURTHER, THE "CAMPAIGN FINANCE TRANSPARENCY AND ACCOUNTABILITY AMENDMENT ACT OF 2017" WILL DEEM ANY PERSON WHO MAKES A CONTRIBUTION OR SOLICITATION TO A "COVERED RECIPIENT" AS INELIGIBLE TO ENGAGE IN BUSINESS DEALINGS, VALUED AT $100,000.00 OR MORE, WITH THE DISTRICT GOVERNMENT FOR A TWO YEAR PERIOD, FROM THE DATE OF THE CONTRIBUTION OR SOLICITATION; AND REPEALS TITLE 3, SECTION 3011.33 OF THE DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS. THE REPEAL OF 3 DCMR 3011.33 WAS INCLUDED IN THE NOTICE OF EMERGENCY AND PROPOSED RULEMAKING ADOPTED BY THE BOARD OF ELECTIONS ON APRIL 5, 2017 AND PUBLISHED IN THE D.C. REGISTER ON APRIL 21, 2017. FINAL RULEMAKING ACTION IS PENDING. IN THIS REGARD, D.C. LAW 21-235, THE "CAMPAIGN FINANCE REFORM AND TRANSPARENCY TEMPORARY AMENDMENT ACT OF 2016", EFFECTIVE APRIL 1, 2017, PROVIDES FOR THE APPLICATION OF THE CURRENT CONTRIBUTION LIMIT OF $5,000.00 TO POLITICAL ACTION COMMITTEES DURING NONELECTION YEARS.

THE ENACTMENT OF THIS LEGISLATION WILL REQUIRE SEVERAL ENHANCEMENTS TO THE OCF E-FILING AND DISCLOSURE SYSTEM. FIRST, THE CERTIFICATION TEXT OF THE E-FILING APPLICATIONS FOR THE FINANCIAL REPORTS OF THE POLITICAL ACTION COMMITTEE AND THE INDEPENDENT EXPENDITURE COMMITTEE (OCF FORM 16) MUST BE ENHANCED TO INCLUDE

THE NEW CERTIFICATION STATEMENTS FOR THESE FILER TYPES. IN ADDITION, THE PROPOSAL WILL REQUIRE THE DEVELOPMENT OF AN E-FILING APPLICATION TO FACILITATE THE FILING OF REPORTS BY THE INDIVIDUAL WHO MAKES INDEPENDENT EXPENDITURES AND THE DISCLOSURE OF THE REQUIRED INFORMATION AND CERTIFICATIONS; AND THE CREATION OF AN ADMINISTRATIVE REGISTRATION MODULE TO ACCEPT INFORMATION KEY TO THE IDENTITY OF THE FILER AND TO ESTABLISH LOGIN CREDENTIALS. THE ADMINISTRATIVE MODULE WILL MANAGE THE REGISTRATIONS AND THE FILINGS.

SECOND, THE NEW PROVISIONS FOR THE INDEPENDENT EXPENDITURE DISCLOSURES BY A "COVERED ORGANIZATION" WILL REQUIRE THE DEVELOPMENT OF A NEW E-FILING APPLICATION WITH SCHEDULES (A & B) TO ENABLE THE RECEIPT OF REPORTS FROM THE COVERED ORGANIZATION WITH THE ENUMERATED DISCLOSURES, INCLUDING THE DETAILS OF THE RECEIPTS AND EXPENDITURES, AND CERTIFICATION STATEMENTS; AND THE CREATION OF AN ADMINISTRATIVE REGISTRATION MODULE TO ACCEPT INFORMATION KEY TO THE IDENTITY OF THE FILER AND TO ESTABLISH LOGIN CREDENTIALS. THE ADMINISTRATIVE MODULE WILL MANAGE THE REGISTRATIONS AND THE FILINGS.

LAST, THE PROVISIONS REQUIRING THE POLITICAL ACTION COMMITTEE TO ESTABLISH A SEGREGATED ACCOUNT FOR THE RECEIPT OF CONTRIBUTIONS WILL REQUIRE THE CREATION OF NEW SCHEDULES (A & B) FOR THE E-FILING APPLICATION FOR THE FINANCIAL REPORT OF THIS FILER TYPE TO DISCLOSE THE RECEIPTS ALLOCATED TO, AND THE EXPENDITURES FROM THE CONTRIBUTIONS ACCOUNT; AND THE MODIFICATION OF THE ADMINISTRATIVE MODULE FOR THE STATEMENT OF ORGANIZATION FOR THE COMMITTEE TO CAPTURE THE DESIGNATION OF THE CONTRIBUTION ACCOUNT, AND THE LISTING OF THE ACCOUNT NUMBER AND BANK LOCATION.

FISCAL IMPACT OF THE PROPOSED BILLS

THE FY17 APPROVED BUDGET FOR THE OFFICE OF CAMPAIGN FINANCE TOTALS $2,833,463.00. THE SUM OF $2,726,012.00 IS ALLOCATED TO THE PERSONAL SERVICES BUDGET TO FUND THE 30 CONTINUING FULL TIME POSITIONS OF THE AGENCY. WE SUBMIT THE CURRENT STAFFING

LEVELS WILL ENABLE THE OCF TO ASSUME THE INCREASED AUDIT AND ENFORCEMENT RESPONSIBILITIES ANTICIPATED UNDER THESE PROPOSALS.

THE FUNDS ALLOCATED TO THE NON PERSONAL SERVICES BUDGET, $107,457.00, HOWEVER, WILL NOT SUPPORT THE UPGRADES REQUIRED BY THE VARIOUS PROPOSALS. THE FY 2017 BUDGET IN THIS AREA (OBJECT CLASS 40), $97,451.00, SUPPORTS THE PROJECTED ANNUAL MAINTENANCE COSTS OF THE OCF ELECTRONIC FILING AND DISCLOSURE SYSTEM ($53,772.96); THE ANNUAL RECRUITMENT AND STAFFING SUPPORT SERVICES FROM THE DEPARTMENT OF HUMAN RESOURCES ($15,000.00); ANNUAL FLEET SERVICES FROM THE DEPARTMENT OF PUBLIC WORKS ($11,626.78); AND ANNUAL COPIER MAINTENANCE ($7,043.76).

CONSEQUENTLY, ADDITIONAL FUNDING WILL BE REQUIRED TO SECURE THE AFORE-MENTIONED UPGRADES AND ENHANCEMENTS TO THE OCF ELECTRONIC FILING AND DISCLOSURE SYSTEM (EFS) REQUIRED UNDER THE VARIOUS PROPOSALS. THE VENDOR WHO DEVELOPED THE OCF ELECTRONIC FILING SYSTEM, AND WHO HAS BEEN RESPONSIBLE FOR ITS ANNUAL MAINTENANCE AND SUBSEQUENT UPGRADES, PROVIDED THE VERY ROUGH ESTIMATE OF COSTS FOR THE UPGRADES IN THE TOTAL SUM OF $67,320.00.

CONCLUSION

IN CONCLUSION, THE OFFICE OF CAMPAIGN FINANCE AS THE ADMINISTRATIVE AGENCY CHARGED WITH THE RESPONSIBILITY FOR ADMINISTERING AND ENFORCING THE PROVISIONS OF THE CAMPAIGN FINANCE ACT OF 2011, AS AMENDED, STANDS READY TO FULLY EXECUTE ITS DUTIES UNDER THE PROPOSED LEGISLATION IF ENACTED.

THIS CONCLUDES THE COMMENTS OF THE OFFICE OF CAMPAIGN FINANCE.

OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS
FRANK D. REEVES MUNICIPAL BUILDING
SUITE 433, 2000-14TH STREET, NW
WASHINGTON, DC 20009
(202) 671-0550

BEFORE THE COMMITTEE ON GOVERNMENT OPERATIONS

STATEMENT OF CECILY E. COLLIER-MONTGOMERY
DIRECTOR, OFFICE OF CAMPAIGN FINANCE

PROPOSED LEGISLATION REGARDING BILL B22-0051, "THE COMPREHENSIVE CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2017"

JULY 10, 2017

BILL B22-0051, "THE COMPREHENSIVE CAMPAIGN FINANCE REFORM AMENDMENT ACT OF 2017", FOR PURPOSES OF TODAY'S DISCUSSION, INTRODUCES AND DEFINES SEVERAL NEW CAMPAIGN FINANCE TERMS, "COVERED CONTRACTOR", "PROHIBITED RECIPIENT" AND "RELATED PARTY" AS IT SEEKS TO PLACE CAMPAIGN FINANCE RESTRICTIONS ON CERTAIN TYPES OF CONTRIBUTIONS TO POLITICAL CAMPAIGNS IN THE DISTRICT OF COLUMBIA. THIS LEGISLATION PROPOSES TO REGULATE CERTAIN CAMPAIGN CONTRIBUTIONS DURING PROHIBITED PERIODS PRIOR TO AN ELECTION TO ELIMINATE UNFAIR ADVANTAGES THAT CAN CONTAMINATE THE DEMOCRATIC PROCESS IN THE DISTRICT OF COLUMBIA.

FURTHER, THIS BILL WOULD PROHIBIT DISTRICT OF COLUMBIA PURCHASING AGENTS, AGENCIES OR INDEPENDENT AUTHORITIES FROM CONTRACTING WITH A "COVERED CONTRACTOR" IF THAT ENTITY SEEKS OR HOLDS CONTRACTS OR GRANTS WITH THE DISTRICT OF COLUMBIA WITH A CUMULATIVE VALUE OF $250,000 OR MORE, AND THE "COVERED CONTRACTOR" OR A "RELATED PARTY" HAS SOLICITED OR MADE A CONTRIBUTION OR EXPENDITURE TO A PROHIBITED RECIPIENT BETWEEN CERTAIN PRESCRIBED DATES.

ADDITIONALLY, THIS LEGISLATION WOULD REQUIRE "COVERED CONTRACTORS" TO SUBMIT A SWORN STATEMENT OF ITS COMPLIANCE WITH THE PROHIBITIONS TO THE DISTRICT OF COLUMBIA, AS WELL AS THAT OF ANY RELATED PARTIES, ANY

IMMEDIATE FAMILY MEMBERS OF "COVERED CONTRACTORS" OR IMMEDIATE FAMILY MEMBERS OF OFFICERS OR DIRECTORS OF "COVERED CONTRACTORS" PRIOR TO AWARD OF A CONTRACT OR GRANT.

IN ADDITION, THIS BILL SEEKS TO PLACE RESTRICTIONS ON THE IMMEDIATE FAMILY MEMBERS OF "COVERED CONTRACTORS" BY LIMITING THEIR CONTRIBUTIONS TO A PROHIBITED RECIPIENT TO $300 PER PERSON PER ELECTION AND EXPANDS THE AMOUNT OF A CONTRIBUTION ATTRIBUTABLE TO AN ENTITY TO INCLUDE A CONTRIBUTION MADE BY A RELATED PARTY. THE LEGISLATION ALSO REDUCES THE AMOUNT OF CASH AND MONEY ORDER CONTRIBUTIONS PER DONOR FROM THE EXISTING $100 TO $25.

FOR PURPOSES OF ENFORCEMENT, THE FOREGOING PROVISION WOULD MANDATE THE IDENTIFICATION BY "COVERED CONTRACTORS" OF ALL AFFECTED PARTIES, AND THE CREATION OF A DATABASE TO AID WITH THE IDENTIFICATION OF POTENTIAL VIOLATIONS.

IN OUR VIEW, BILL B22-0051's RESTRICTIONS ON FAMILY MEMBERS OF "COVERED CONTRACTORS" AND OF ITS OFFICERS, DIRECTORS AND PRINCIPALS MAY EXTEND BEYOND OCF'S ABILITY TO EFFECTIVELY ENFORCE THE LEGISLATION. NOTWITHSTANDING THE OBVIOUS ARGUMENT THAT BARRING ANY HISTORY OF CORRUPTION, THIS LEGISLATION MAY ABRIDGE THE RIGHTS OF IMMEDIATE FAMILY MEMBERS TO SUPPORT THE CANDIDATES OF THEIR CHOICE TO THE MAXIMUM AMOUNT ALLOWABLE REGARDLESS OF THEIR RELATIONSHIP TO A CLEARLY IDENTIFIED CONTRACTOR, OCF DOES NOT CURRENTLY POSSESS THE ABILITY TO IDENTIFY AND MONITOR IMMEDIATE RELATIVES AND RELATED PARTIES WHO ARE NOT REGISTERED IN OUR SYSTEM.

ENFORCEMENT OF THIS PROVISION WOULD REQUIRE THE CREATION OF A DATABASE BY GOVERNMENT CONTRACTING OFFICERS OF "COVERED CONTRACTORS" THAT PROVIDES INFORMATION REGARDING ALL AFFECTED PARTIES, INCLUDING RELATED PARTIES AND IMMEDIATE FAMILY MEMBERS. THE DATABASE SHOULD BE UPDATED PERIODICALLY TO INCLUDE ALL RELEVANT CHANGES AS THEY OCCUR. EVEN THOUGH THE DATABASE MAY PROVIDE REQUIRED INFORMATION, THE ACCURACY OF

THE INFORMATION WOULD PRIMARILY DEPEND ON THE VERACITY OF THE "COVERED CONTRACTORS" DISCLOSURES. THUS, ENFORCEMENT WOULD ESSENTIALLY RELY ON AN HONOR SYSTEM. FURTHER, INFORMATION MUST BE MAINTAINED AND UPDATED REGARDING THE CHANGING STATUS OF CONTRACTS AS THEY EXCEED AND FALL BENEATH $250,000.

FINALLY, THE ENACTMENT OF THIS LEGISLATION WOULD REQUIRE OCF TO COORDINATE ITS OVERSIGHT EFFORTS WITH SUCH DISTRICT AGENCIES AS THE OFFICE OF CONTRACTING AND PROCUREMENT (OCP), THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS (DCRA) AND THE OFFICE OF THE CHIEF FINANCIAL OFFICER (OCFO). THIS WOULD BE NECESSARY TO FACILITATE THE DEVELOPMENT AND COORDINATION OF INTER-AGENCY SYSTEMS TO ENSURE THE ROUTINE AND TIMELY FLOW OF DATA TO SUPPORT OCF'S ADDITIONAL REGULATORY FUNCTIONS IMPOSED BY THIS COMPLEX LEGISLATION.

THIS CONCLUDES MY TESTIMONY. I WOULD BE PLEASED TO ENTERTAIN ANY QUESTIONS THE COMMITTEE MAY HAVE.

Statement of Karl A. Racine
Attorney General for the District of Columbia

Before the

Committee on the Judiciary and Public Safety
The Honorable Charles Allen, Chairperson

Public Hearing

Bill 22-8, the "Campaign Finance Transparency and Accountability Amendment Act of 2017"

July 10, 2017
9:30 am
Room 500
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, District of Columbia 20004

Greetings Chairman Allen, Councilmembers, staff, and residents. I am Karl A. Racine, and I have the privilege of serving as the Attorney General for the District of Columbia. I am pleased to be here to discuss the important issue of campaign finance reform, and specifically to testify in favor of Bill 22-8, the "Campaign Finance Transparency and Accountability Amendment Act of 2017." I also support the goals and objectives of each of the other bills on the agenda today, and should the Committee choose to move forward with any of them, the Office of the Attorney General ("OAG") stands ready to assist you and the Council prior to mark-up. Before I testify on Bill 22-8, however, I want to touch briefly on why immediate action on these bills is so crucial to the sanctity our elections and the integrity of our government.

On October 12, 2016, OAG partnered with Georgetown University Law Center to host a forum titled *Campaign Finance in the District of Columbia.* We were honored to be joined by elected officials, campaign finance experts, and members of the public. The comments and questions at this event made clear that there is an overwhelming perception among District residents that big money exerts an undue influence on government decision-makers -- to the detriment of residents' needs and concerns. These perceptions have been heightened as a result of the recently released report entitled "Findings and Recommendations of Mary M. Cheh on the Department of General Services Contracting and Personnel Management." This thorough report highlights the appearance of pay-to-play politics in our city. As Councilmember Cheh recommended in her report:

The Council should consider amending campaign finance laws to regulate campaign contributions by contractors...even the mere impression of favoritism for particular contractors or vendors by government staff can chill competition for government contracts.

To be clear, the perception that politically connected developers and contractors get unfair advantages due to campaign contributions is nothing new.[1] OAG does not propose that this perception is specific to any particular administration or agency; rather, this is a structural concern that requires serious study and thoughtful action by our policymakers. The first step is immediate action on the bills before the Council today.

Campaign Finance Transparency and Accountability Amendment Act of 2017

One of the most significant changes since District residents voted overwhelmingly to create an independent OAG is that the Attorney General has a statutory mandate to uphold the public interest. In accord with this mandate, on January 5, 2017, I introduced Bill 22-8, the "Campaign Finance Transparency and Accountability Amendment Act of 2017." This legislation proposes to strengthen three major pillars of the District's campaign-finance law: 1) ending the practice and perception of pay-to-play politics; 2) making political donations transparent; and 3) creating a "bright line" between candidates and Political Action Committees (PACs). The proposal also includes other provisions that tighten the District's campaign-finance laws.

[1] Editorial Board, "Ending pay-to-play in D.C.," Washington Post, October 28, 2013

Pay-to-Play

"Pay-to-play politics" is a term that many District political observers have used lately. It is generally used to describe a culture in which donations to politicians garner something of value in return – including financial benefits, access to politicians, and undue influence in our politics. Under current law, donors to District political campaigns can still receive major financial benefits from the District government. The public is often skeptical about whether large contracts have been entered into in the best interests of the District and not as favors to campaign donors; and businesses wonder whether those who do not contribute to political campaigns can compete on a level playing field with large campaign donors. This campaign-finance bill addresses this perceived problem by preventing donors from engaging in large business contracts, major grants, and receiving significant tax breaks with the District for two years.

Creating a "Bright Line" Between Candidates and PACs

The Supreme Court's rulings make clear that, as long as someone is working with a campaign, their spending can be subjected to sensible regulations, like dollar limits. Under current District law, there is a lot of activity that individuals, corporations, and PACs can engage in that isn't regulated – even though they are actually working with a campaign. Our proposal would ensure that when someone works with a campaign, they cannot claim to be independent, and are subject to all the regulations that help keep our elections clean and transparent.

Making Political Donations Transparent

The Supreme Court has said that the government cannot limit the independent expenditures of an individual or a corporation – that is, spending to support or oppose a candidate without actually working with that candidate's campaign. But the government can place important disclosure requirements on this kind of spending to make sure the public knows who is donating the money to support it.

Under current District law, anonymous donors are able to give unlimited amounts of money to an organization in order to make independent expenditures, as long as that organization doesn't have electioneering as its principal purpose. That is a significant loophole in our disclosure laws. The effect is that the fundamental principle that campaign donations be open and transparent is circumvented. District residents are left in the dark about where funds are coming from to support our elections, and this runs counter to every other policy governing campaign finance. The legislation addresses this problem by making sure that *all* organizations -- not just primarily political ones -- that make independent expenditures above a certain threshold have to identify anyone who has donated more than $200 towards those expenditures.

Other Provisions

This legislation would amend current law concerning PACs to bring the District into compliance with controlling First Amendment case law. By law, PACs can make both campaign contributions and independent expenditures. Based on the D.C. Circuit's decision in *EMILY's List v. FEC*, if an organization like a PAC makes both contributions and independent

expenditures, the Council has the power to limit donations to any PAC account that is used to make campaign contributions. However, if the PAC creates an account that is used only for independent expenditures, the First Amendment forbids the Council from restricting how much money people can contribute into that expenditure-only account. Unfortunately, District law does not make this distinction. It restricts *all* contributions to a PAC, even contributions that are specifically going to an expenditure-only account. The bill would fix this First Amendment problem while ensuring that our campaign finance laws are as strong as they can be.

The bill would also ensure that members of boards and commissions appointed by District government officials go through the same rigorous ethics training that District government employees undergo.

* * *

Before I conclude, I want to express my profound appreciation to the Committee on the Judiciary and Public Safety for holding this important hearing so early in Council Period 22. I also want to thank the good-government advocates and the District residents that have taken time to attend this vitally important hearing. It will take all of us working together to fundamentally improve our election and campaign finance system. I want to note that on June 29, 2017, this Committee held a hearing on Bill 22-192, the "Fair Elections Act of 2017." This bill proposes to create a public financing system for candidates for elected office. As my letter to the Committee expressed, I am in favor of public financing and Bill 22-192. A Brennan Center for Justice and New York University Law School study found that donor diversity and participation are greatly

increased in local city races due to their public financing system.[2] This is the type of fundamental reform that we should implement in the District. I pledge to work with the Mayor, Council, and all relevant stakeholders to ensure we achieve a workable, legally sufficient, and readily understandable bill should the Committee move forward with Bill 22-192.

Conclusion

I greatly appreciate the opportunity to testify. As I have noted, OAG is in full support of the policies surrounding each of the bills the Committee is considering today. It is vital that the District address these issues, and OAG stands ready to assist the Council with any legislation it sees fit to pursue. I am pleased to answer any questions that members may have.

[2] Brennan Center for Justice, "Donor Diversity through Public Matching Funds," New York University School of Law (2012).

ATTACHMENT I

Government of the District of Columbia
Office of the Chief Financial Officer

Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO:	**The Honorable Phil Mendelson** **Chairman, Council of the District of Columbia**
FROM:	**Jeffrey S. DeWitt** **Chief Financial Officer**
DATE:	**October 19, 2018**
SUBJECT:	**Fiscal Impact Statement – Campaign Finance Reform Amendment Act of 2018**
REFERENCE:	**Bill 22-107, Draft Committee Print as shared with the Office of Revenue Analysis on October 17, 2018**

Conclusion

Funds are not sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill. The bill's implementation will cost approximately $245,000 in fiscal year 2019 and $4.2 million over the four-year financial plan period. The bill's implementation is subject to its inclusion in an approved budget and financial plan.

Background

The bill removes oversight of the Office of Campaign Finance from the Board of Elections and reestablishes it as an independent five-member Campaign Finance Board (CFB)[1] that will administer and enforce the District's campaign finance laws. The bill outlines the requirements a CFB member must meet to sit on the CFB and what types of political activities must be avoided. CFB members are appointed by the Mayor and the appointments are sent to the Council for approval. CFB members are eligible for compensation at a rate of $40 per hour up to a maximum of $12,500 for a member and $26,500 for the CFB chairperson. The CFB should hold monthly meetings which will be subject to the requirements of the Open Meetings Act. The CFB, rather than the Board of Elections, will appoint the Director of Campaign Finance.

[1] No more than three of the CFB members can be of the same political party and each member serves six-year terms (with the exception of the initial CFB that will start with staggered terms).

The bill also establishes certain prohibitions on political contributions by entities and their principals[2] seeking or receiving contracts – defined in the bill as covered contractors – with the District valued at $250,000 or more. Contracting authorities,[3] in coordination with the CFB and the Director of Campaign Finance, will oversee these prohibitions. The chart below outlines the categories of covered contracts and the prohibited contribution periods:

Prohibited Period Commencement: the date of solicitation or other similar invitation or opportunity to contract; except that the prohibited period for tax exemptions or abatements begins at the introduction of required legislation.	
Contract Type	**Prohibited Period Termination**
(1) Rendition of services; (2) Furnishing of any goods, materials, supplies, or equipment; (3) Construction, alteration, or repair of District-owned or leased properties; (4) Acquisition or sale of District-owned properties.	(1) At the termination of negotiations for an unsuccessful solicitation; or (2) one year after the contract terminates if the solicitation is successful.
(1) Leases; (2) Licensing arrangements; (3) loans or loan guarantees.	(1) At the termination of negotiations for an unsuccessful solicitation; or (2) one year after successfully entering into the contract.
Surpluses and dispositions.	(1) Prior to the introduction of legislation before the Council or upon termination of negotiations for an unsuccessful solicitation; (2) at the end of the Council period if the solicitation is successful and legislation is pending or is disapproved; or (3) one year after the effective date of the legislation if the solicitation is successfully approved.
Tax exemption or abatement.	(1) At the end of the Council period if the legislation is pending or is disapproved; or (2) one year after the effective date of the legislation.

Recipients prohibited from receiving contributions will vary by contract, depending on who will approve the contract. Contracts with the Mayor or any Executive agencies prohibit contributions to the Mayor.[4] Contracts with the Attorney General prohibit contributions to the Attorney General.[5] Any contracts that require approval by the Council also prohibit contributions to any member of the

[2] Principals include members of a board of directors and senior officers, including presidents; executive directors; and chief executive, operating, and financial officers.
[3] Contracting authorities include the Office of Contracting and Procurement and agencies that have independent contracting authority.
[4] This includes candidates for Mayor, political committees affiliated with the Mayor or a candidate for Mayor, and a Mayor's constituent services program.
[5] This includes candidates for Attorney General and political committees affiliated with the Attorney General or a candidate for Attorney General.

Council.[6] These restrictions apply both when a contractor holds a contract and when he or she is seeking a contract.

The bill bans all District government agencies and instrumentalities from entering into contracts with covered contractors that have made these prohibited contributions. To enforce these prohibitions, contracting authorities must make publicly available on their websites lists of all covered contractors, including their principals, and notify each one about which campaign finance activities are prohibited. The Director of Campaign Finance should cross-reference the lists of covered contractors with its contributor records and notify the contractor, the prohibited recipient, and the relevant contracting authority of any violations. If a covered contractor violates any of the prohibitions, contracting authorities are authorized, at their discretion, to terminate the contract, cancel any option periods, and ban the contractor from contracting with the District for four years. The CFB should publicly disclose the covered contractors who made, and the prohibited recipients who received, prohibited contributions.

Current law requires any contracts over $1 million to be submitted to Council for approval.[7] The bill requires contracting authorities to include additional information when submitting the contracting packages to Council. The additional information includes the identity of all principals affiliated with the contractor, a list of any other contracts the contractor holds or seeks, and a certification that the contractor is not in violation of prohibited contributions laws. If the contractor is in violation of these laws, the contracting authority must also submit a certification from the contractor attesting that it is in violation, but that it will come into compliance. The bill also requires the Chief Financial Officer to include in any tax abatement financial analysis (TAFA) submitted to Council for a tax abatement over $250,000 a list of the abatement recipients and principals and any contributions they have made to the Mayor or Councilmembers[8] since the abatement legislation was introduced, through the date of the TAFA.

The bill also makes several changes around campaign contributions and expenditures. The bill eliminates an $8,500 maximum contribution amount to all candidates during an election cycle, requires contributors to identify employer information, and prohibits the bundling of contributions by registered lobbyists. The bill also reduces the bundled contribution limit to political committees from $10,000 to $5,000. The bill clarifies the definition of coordination to cover any contribution or expenditures made at the explicit or implicit direction, request, or suggestion of, or in cooperation, consultation, or concert with, a public official, a political committee, or an agent of either the official or committee. The bill shifts the dates that political committees need to report their contributions and expenditures during an election year to the 10th day of February, April, July, September, and December and eight days before a primary, general or special election.[9,10] The new reporting dates during a non-election year are the 10th days of February, July, September, and December.[11] The

[6] This includes candidates for Council, political committees affiliated with a Councilmember or a candidate for Council, and a Councilmember's constituent services program.
[7] Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-352.02).
[8] This includes candidates for Mayor or Council and any affiliated political committees or constituent services programs.
[9] Political action committees and independent expenditure committees must report by these dates in non-election years as well.
[10] The current deadlines are the 10th day of March, June, August, October, and December in the 7 months preceding an election and eight days before a general or special election.
[11] The current non-election year deadline is July 31st.

Director of Campaign Finance will be required to keep all paper and electronic documents for ten years.

The bill expands the definition of political advertising to include bumper stickers, radio and television advertisements, text messages, telephone calls, and digital media advertisements so that each of these must include 'paid for by' language. The bill also requires advertisements paid for by independent expenditures[12] to include a list of the top five contributors when applicable.

The bill changes how many of the different campaign finance committees operate and how they must manage their residual funds. Principal campaign committees will be restricted to a six-month period to fundraise for and retire campaign debts using campaign funds. Candidates are also limited to repaying themselves up to $25,000. The bill clarifies that any residual funds left in an exploratory committee can be donated to a non-profit organization in the District so long as that organization has been in operation for at least one year and is in good standing in the District. The bill reduces the maximum contribution amount to an inaugural committee from $10,000 to $2,000, prohibits the transfer of any residual funds to a constituent services program, restricts the Mayor to six months to fundraise for and retire any related debts, and increases the termination date of inaugural committees from forty-five days to six months. The bill increases the maximum contribution amount to a Council Chairperson or Attorney General transition committee from $1,000 to $1,500,[13] prohibits the transfer of any transition committee residual funds to a constituent services program, restricts the Mayor, Attorney General, or Chairperson of the Council to six months to fundraise for and retire any related debts, and increases the termination date of transition committees from forty-five days to six months. The bill clarifies that expenditures from a legal defense committee must be related to a public official's campaign or government activities and duties, reduces the maximum contributions to these committees from $10,000 to $2,000, and prohibits the transfer of any residual funds to a constituent services program.

The bill also requires political action committees to establish segregated non-contribution accounts which are dedicated to making independent expenditures and excludes these accounts from the $5,000 contribution limit to a political action committee per election. The bill expands the $5,000 contribution limit during an election year from any one person to a political action committee's main account to be a restriction during non-election years as well. The bill also reduces from $10,000 to $5,000 the amount by which a political action committee must report bundled contributions.

The bill also prohibits the expenditure of funds from a constituent services program on year-long or season admissions to theater, sport, or cultural events.

The bill requires the Campaign Finance Board to include in its training for candidates and treasurers information on business contributions[14] and the Fair Elections program.[15]

---

[12] Independent expenditures are those made for the purpose of promoting or opposing a nomination or election; political party; or initiative, referendum, or recall. These expenditures are not controlled or coordinated with a public official or agent operating on behalf of a public official.
[13] This limit does not apply to any self-funding of transition efforts.
[14] Campaign Finance Reform and Transparency Amendment Act of 2013, effective February 22, 2014 (D.C. Law 20-79; D.C. Official Code § 1-1161.01 et seq.).
[15] Fair Elections Amendment Act of 2018, effective May 5, 2018 (D.C. Law 22-94; D.C. Official Code § 1-1163.32a et seq.).

The bill provides the Board of Elections authority to issue advisory opinions and sets forth the guidelines the Board must follow when doing so.[16] The bill also gives the Board of Elections authority to issue civil penalties of up to $2,000 depending on the infraction and whether the person directly violates or assists in a violation.

Current law allows a public official to designate one government employee who is authorized to solicit and accept contributions on behalf of a principal campaign committee, exploratory committee, or transition committee.[17] The bill clarifies that the designated employee must use annual or unpaid leave when performing these activities and requires the Board of Ethics and Government Accountability to publicly disclose these designated employees on their website.

The bill's covered contractor prohibitions, Council package submission changes, and TAFA provisions apply effective November 4, 2020 and will not apply to any contracts entered into before that date.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill. The bill's implementation will cost approximately $245,000 in fiscal year 2019 and $4.2 million over the four-year financial plan period.

The bill requires, beginning on November 4, 2020, the new CFB and the Director of Campaign Finance to work with contracting authorities to ensure compliance with the bill's prohibition on contracting with covered contractors who violate the bill's prohibited contributions provisions. To successfully implement these activities, the Director will need to hire a new attorney, auditor, and technology specialist to work with the contracting authorities in reviewing covered contractor lists for violations, providing notice to covered contractors and prohibited recipients about violations, maintaining up-to-date information about prohibited recipients, and to provide certifications for Council contract packages. These personnel, which we expect would be hired in fiscal year 2020 to prepare for the fiscal year 2021 implementation, will cost approximately $886,000 over the four-year financial plan period. The Director of Campaign Finance will also need to upgrade the electronic filing system to accommodate the reviews of covered contractors, as well as make other changes related to campaign contribution and expenditure filing deadlines. This will cost $100,000 in fiscal year 2019. Finally, the CFB is eligible for compensation up to $12,500 per board member and $26,500 for the chairperson. The CFB requires $76,500 annually to provide this compensation.

The CFB can implement the bill's provisions related to contribution limit changes, political committees, including political action committees, constituent services programs, and enhanced training with existing budgeted resources.

The Office of Contracting and Procurement (OCP) manages most of the contracting needs for the District's Executive agencies and will play a significant role in ensuring compliance with and enforcing the bill's covered contractor provisions. OCP will need to enhance its contracting

[16] Requests for advisory opinions must be published in the DC Register for a 15-day comment period and final advisory opinions must be published in the DC Register within 30 days of issuance.
[17] Prohibition on Government Employee Engagement in Political Activity Act of 2010, effective March 31, 2011 (D.C. Law 18-355; D.C. Official Code § 1-1171.02).

database to be sure it captures information required in the bill, timelines can be tracked to ensure compliance with prohibited periods, and lists of covered contractors can be made publicly available. OCP also does not track information related to non-traditional contractors such as those tied to loans, leases, or dispositions. This database update will cost $200,000 in fiscal year 2020 and $25,000 annually thereafter for maintenance costs. OCP will also need to build a team of six contracting specialists to manage the new information that needs to be collected for the new database, work with agencies to gather data on non-traditional contractors, work with independent contracting authority agencies to gather data on enforcement actions they take, coordinate with CFB on contractors who have violated the bill's campaign finance prohibitions, and manage enforcement of contractors. This team will encompass six contracting specialists and will cost approximately $2 million over the four-year financial plan period. Lastly, OCP will need to build a new training module and hire a campaign finance specialist to ensure the agency's team of contracting officers, specialists, and procurement staff are properly trained and can work with agency staff to comply with the bill's covered contractor provisions. The module will cost $50,000 in fiscal year 2020 and the new trainer will cost $281,000 over the four-year financial plan period. Our analysis assumes that OCP will need to begin planning for the bill's implementation in fiscal year 2020 to accommodate a November 4, 2020 start date for the covered contractor provisions.

Independent contracting authorities will also need to comply with the bill's requirements. Many of these agencies manage a fewer number of covered contractors and can implement the bill's provisions with existing budgeted resources, but without additional resources the activities required for compliance could lead to delays in processing procurements.

Other agencies that work with non-traditional contractors, such as those who receive loans or implement dispositions, will need to collect additional information and provide that to OCP, but they can manage those efforts with existing budgeted resources. The new OCP staff will also work with these agencies to ensure all the correct information is collected.

The Board of Elections requires an additional attorney to assist with issuing advisory opinions and management of the civil fine enforcement. This attorney will cost $68,000 in fiscal year 2019 and $289,000 over the four-year financial plan period.

The chart on the following page summarizes the bill's fiscal implications.

Campaign Finance Reform Amendment Act of 2018 Bill 22-107 Implementation Costs Fiscal Year 2019 – Fiscal Year 2022 ($000s)					
	FY 2019	FY 2020[a]	FY 2021	FY 2022	Total
Campaign Finance Board (CFB)					
Personnel	$0	$289	$292	$305	$886
CFB Compensation	$77	$77	$77	$77	$308
Filing System Update[b]	$100	$0	$0	$0	$100
Total CFB Costs	$177	$366	$369	$382	$1,294
Office of Contracting and Procurement (OCP)					
Personnel	$0	$645	$660	$684	$1,989
Database Updates and Maintenance	$0	$200	$25	$25	$250
Training Module and Personnel[c]	$0	$140	$94	$97	$331
Total OCP Costs	$0	$985	$779	$806	$2,570
Board of Elections Attorney	$68	$71	$74	$76	$289
TOTAL BILL COSTS	**$245**	**$1,422**	**$1,222**	**$1,264**	**$4,153**

Table Notes

[a] Assumes CFB and OCP will need to begin implementation of the bill's covered contractor provisions in fiscal year 2020 to be prepared for the November 4, 2020 applicability date.

[b] The filing system update accommodates more of the bill's provisions than covered contractors and thus will be needed in fiscal year 2019.

[c] Includes $50,000 in fiscal year 2020 to develop the training module.

ATTACHMENT J

OFFICE OF THE GENERAL COUNSEL
Council of the District of Columbia
1350 Pennsylvania Avenue NW, Suite 4
Washington, DC 20004
(202) 724-8026

MEMORANDUM

TO: **Councilmember Charles Allen**

FROM: **Nicole L. Streeter, General Counsel**

DATE: **October 17, 2018**

RE: **Legal Sufficiency Determination for Bill 22-107, the Campaign Finance Reform Amendment Act of 2018**

The measure is legally and technically sufficient for Council consideration.

The bill would amend the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to:

- Modify the contents of the Director of Government Ethics' quarterly report to include contributions reported by registrants;
- Prohibit registrants from bundling contributions to certain political committees;
- Establish the Campaign Finance Board and set forth its composition, powers, and duties;
- Provide a procedure for investigating alleged campaign finance violations;
- Require the Director of Campaign Finance to preserve paper and electronic copies of reports and statements for a period of at least 10 years from the date of receipt;
- Expand the mandatory training provided to candidates for public office and the treasurers of any political committee, political action committee, or independent expenditure committee;
- Allow the Campaign Finance Board to provide and publish advisory opinions on its own initiative or upon receiving a request from certain persons;

- Require a political committee, political action committee, or independent expenditure committee to file additional information in their statements of organization;
- Amend the schedule for filing reports of receipts and expenditures and require additional information to be reported;
- Require political action committees and independent expenditure committees to disclose information about bundled contributions;
- Lower the dollar threshold for reporting bundled contributions by a political committee, political action committee, or independent expenditure committee;
- Prohibit certain political committees from transferring excess fund balances into a constituent-service program;
- Require campaign funds to be used within a certain period to retire the debts of certain types of political committees, after which the candidate would be personally liable for any remaining debts;
- Limit the amount of personal loans to a campaign that can be repaid;
- Prohibit certain public officials from fundraising to retire their campaign debts after 6 months after the election;
- Establish and regulate non-contribution accounts;
- Require non-coordination certifications;
- Enhance reporting requirements for independent expenditures;
- Expand political advertising disclosures;
- Lower contribution limits for inaugural committees and legal defense committees;
- Authorize the Attorney General to maintain a transition committee;
- Align the contribution limitation for transition committees for Council Chairman and Attorney General with other limitations;
- Narrow the authorized purposes for legal defense committees and enhance the information reported by legal defense committees;
- Repeal the aggregate contribution limitations made by a contributor in a single election to candidates and political committees;
- Provide that limitations on contributions apply to political action committees in nonelection years;
- Restrict the ability of government contractors to contribute to certain public officials during certain time periods; and
- Narrow the authorized uses of constituent-service programs.

The bill would amend the Prohibition on Government Employee Engagement in Political Activity Act of 2010 to:

- Clarify that employees of the Mayor, the Attorney General, and each Councilmember may only use annual or unpaid leave to engage in fundraising activities after being designated by their employer;
- Provide that designated employees may only engage in fundraising activities for a principal campaign committee, exploratory committee, or transition committee; and
- Expand the information reported and published about designated employees.

The bill would amend the Procurement Practices Reform Act of 2010 to:

- Require summaries of proposed contracts that come before the Council for approval to contain additional information; and
- Require websites established by the Chief Procurement Officer to include certain government contracting and campaign finance information.

The bill would amend D.C. Official Code § 47-4701 to require a tax abatement financial analysis to include certain government contracting and campaign finance information.

Finally, the bill would amend the District of Columbia Statehood Constitutional Convention Initiative of 1979, the Confirmation Act of 1978, the District of Columbia Government Comprehensive Merit Personnel Act of 1978, and the District of Columbia Election Code of 1955 to make conforming changes.

I am available if you have any questions.

ATTACHMENT K

Comparative Committee Print
B22-0107
Committee on the Judiciary & Public Safety
October 18, 2018

Section 2

D.C. Code § 1-129.21. Definitions.

For the purposes of this subpart, the term:

(1) "Commission" means the New Columbia Statehood Commission established pursuant to § 1-129.31.

(2) "Fund" means the New Columbia Statehood Fund established pursuant to § 1-129.32.

(3) "Statehood Delegation" means, collectively, the United States Representative and the 2 United States Senators holding office pursuant to § 1-123.

(4) "Statehood Fund" means the fund established by each United States Senator and United States Representative pursuant to § 1-123(g), and overseen by the ~~Office of Campaign Finance~~ Campaign Finance Board.

(5) "United States Representative" means the District of Columbia public official elected pursuant to § 1-123 to the office of Representative.

(6) "United States Senator" means either of the 2 District of Columbia public officials elected pursuant to § 1-123 to the office of Senator.

[...]

Section 3

D.C. Code § 1–523.01. Mayoral nominees.

(a) The Mayor shall nominate persons to serve as subordinate agency heads in the Executive Service established by subchapter X-A of Chapter 6 of this title [§ 1-610.51 *et seq.*], subject to the advice and consent of the Council, within 180 calendar days of the date of the establishment of the subordinate agency or the date of a vacancy. A nomination shall be submitted to the Council for a 90-day period of review, excluding days of Council recess. If the Council does not approve or disapprove the nomination by resolution within this 90-day review period, the nomination shall be deemed confirmed.

(1) If the Mayor fails to nominate a person within 180 days of the establishment of the subordinate agency vacancy or the date of vacancy, no District funds may be expended to compensate any person serving in the position.

(2) The Mayor may designate an acting subordinate agency head, but this designation shall not suspend the requirements of this section, or the provisions of § 1-610.59(a).

(b) The Mayor shall not appoint board or commission members to serve in a position that the law requires to be filled by Mayoral appointment with the advice and consent of the Council.

(c) No person shall serve in a hold-over capacity for longer than 180 days after the expiration of the term to which he or she was appointed, in a position that is required by law to be filled by Mayoral appointment with the advice and consent of the Council including to positions on boards and commissions.

(d) The provisions of this section shall not be affected by any provision in subchapter VI of Chapter 3 of this title [§ 1-315.01 *et seq.*].

(e) Notwithstanding any other provision of law, the Mayor shall transmit to the Council, for a 90-day period of review, excluding days of Council recess, nominations to the boards and commissions listed in this subsection. If the Council does not approve by resolution within the 90-day period a nomination to these boards or commissions, the nomination shall be deemed disapproved.

(1) The Alcoholic Beverage Control Board, established by § 25-104(a);

(2) The District of Columbia Board of Library Trustees, established by § 39-104;

(3) The Board of Trustees of the University of the District of Columbia, established by § 38-1202.01;

(4) The Board of Zoning Adjustment, established by § 6-641.07;

(5) The Police Complaints Board, established by § 5-1104;

(6) The Contract Appeals Board, established by § 2-360.01;

(7) The District of Columbia Board of ~~Elections and Ethics [Board of Elections]~~ Elections, established by § 1-1001.03;

(8) The Commission on Human Rights, established by § 2-1404.01;

(9) Repealed.

(10) The District of Columbia Housing Finance Agency Board of Directors, established by § 42-2702.02;

(11) Repealed.

(12) Repealed.

(13) The Historic Preservation Review Board, established by Mayor's Order 83-119, issued May 6, 1983 (30 DCR 3031) in accordance with § 6-1103;

(14) The Metropolitan Washington Airports Authority Board of Directors, established by § 9-1006(e);

(15) Repealed;

(16) The Office of Employee Appeals, established by § 1-606.01;

(17) The Public Employee Relations Board, established by § 1-605.01;

(18) The Public Service Commission, established by § 34-801;

(19) The Rental Housing Commission, established by § 42-3502.01;

(20) The Washington Convention and Sports Authority Board of Directors, established by § 10-1202.05;

(21) The Water and Sewer Authority Board of Directors, established by § 34-2202.04;

(22) The Zoning Commission for the District of Columbia, established by § 6-621.01;

(23) Repealed.

(24) Repealed.

(25) Repealed;

(26) Repealed;

(27) The Board of Commissioners of the District of Columbia Housing Authority, established by § 6-211;

(28) Repealed;

(29) Homeland Security ~~Commission established~~ Commission, established by § 7-2271.02;

(30) Commission on Fashion Arts and Events, established by § 3-651;

(31) The Board of Ethics and Government Accountability, established by § 1-1162.02; provided, that a nomination to the Board of Ethics and Government Accountability shall be submitted to the Council for a 45-day period of review, pursuant to § 1-1162.03(b)(1);

(32) Commission on the Arts and Humanities, established by § 39-203;

(33) The Board of Directors of the Washington Metrorail Safety Commission established by Article III.B of § 9-1109.11~~; and~~ ;

(34) The Green Finance Authority~~.~~ ; and

(35) The Campaign Finance Board, established by section 302 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.02.).

[...]

Section 4

D.C. Code § 1-603.01. Definitions

For the purpose of this chapter unless otherwise required by the context:

(1) The term "agency" means any unit of the District of Columbia government required by law, by the Mayor of the District of Columbia, or by the Council of the District to administer any law, rule, or any regulation adopted under authority of law. The term "agency" shall also include any unit of the District of Columbia government created by the reorganization of 1 or more of the units of an agency and any unit of the District of Columbia government created or organized by the Council of the District of Columbia as an agency. The term "agency" shall not include the Council.

(1A) The term "Attorney General" means the Attorney General for the District of Columbia.

(2) The term "boards and commissions" means bodies established by law or by order of the Mayor of the District of Columbia consisting of appointed members to perform a trust or execute official functions on behalf of the District of Columbia government. Compensation or reimbursement of expenses, if any, to such members shall be provided according to § 1-611.08; provided, however, that full-time employees shall be paid in accordance with the provisions of § 1-611.04 or § 1-611.11.

(3) The term "Career Service" means positions in the District of Columbia government as provided for in subchapter VIII of this chapter and § 1-602.04.

(4) The term "Council" means the Council of the District of Columbia, created pursuant to § 1-204.01.

(5) The term "District" means the District of Columbia government (§ 1-102).

(5A) The term "domestic partner" shall have the same meaning as provided in § 32-701(3).

(5B) The term "domestic partnership" shall have the same meaning as provided in § 32-701(4).

(5C) The term "domicile" means:

(A) Physical presence in the District of Columbia; and

(B) An intent to abandon any and all former domiciles and remain in the District of Columbia during the duration of the appointment.

(6) The term "educational employee" means an employee of the District of Columbia Board of Education or of the Board of Trustees of the University of the District of Columbia, except persons employed in any of the following types of positions:

(A) Clerical, stenographic, or secretarial positions;

(B) Custodial, building maintenance, building engineer, general maintenance, or general engineering positions;

(C) Bus drivers and other drivers involved in the transportation of persons, equipment, materials or inventory;

(D) Cooks, dieticians, and other positions involved in direct planning, preparation, service, and conditions of preparation and service of food;

(E) Technicians involved in the operation or maintenance of machinery, vehicles, equipment or the processing of materials and inventory; or

(F) Positions the major duties in which consist of the supervision of employees covered in subparagraphs (A) through (E) of this definition: provided, however, that this subparagraph shall not be deemed to include heads of academic units at the School of Law or the University of the District of Columbia.

(7) The term "employee" means, except when specifically modified in this chapter, an individual who performs a function of the District government and who receives compensation for the performance of such services.

(8) The term "Excepted Service" means positions in the District of Columbia government as provided for in subchapter IX of this chapter.

(8A) The term "exceptional circumstances" means conditions or facts that are uncommon, deviate from or do not conform to the norm, or are beyond willful control, which are presented to the personnel authority by an agency hiring an individual to fill a position in the Excepted and Executive Services, and which shall be considered by the personnel authority in determining the reasonableness of granting a waiver of the domicile requirement pursuant to §§ 1-609.06 and 1-610.59.

(9) The term "Executive Service" means any subordinate agency head whom the Mayor is authorized to appoint in accordance with subchapter X-A of this chapter.

(9A) "Gender identity or expression" shall have the same meaning as provided in § 2-1401.02(12A).

(10) The term "grievance" means any matter under the control of the District government which impairs or adversely affects the interest, concern, or welfare of employees, but does not include adverse actions resulting in removals, suspension of 10 days or more, or reductions in grade, reductions in force or classification matters. This definition applies to matters which are subject to procedures established pursuant to section § 1-616.53 and is not intended to restrict matters that may be subject to a negotiated grievance and arbitration procedure in a collective bargaining agreement between the District and a labor organization representing employees.

(10A) The term "hard to fill position" means a position so designated by the personnel authority on the basis of demonstrated recruitment and retention problems inherent in the position due to the uniqueness of the duties and responsibilities and the unusual combination of highly specialized qualification requirements for the position.

(11) The term "head" means the highest ranking executive official of an agency.

(12) The term "holidays" means any day established as a legal holiday pursuant to subchapter XII of this chapter.

(13) The term "independent agency" means any board or commission of the District of Columbia government not subject to the administrative control of the Mayor, including, the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, the Armory Board, the Board of Elections, Board of Ethics and Government Accountability, the Public Service Commission, the Zoning Commission for the District of Columbia, the Public Employee Relations Board, the District of Columbia Retirement Board, and the Office of Employee Appeals. For the purposes of this chapter, the Office of the Attorney General for the District of Columbia shall be considered an independent agency of the District of Columbia. For the purposes of subchapter XXVIII of this chapter, the Washington Metropolitan Area Transit Commission shall be considered an independent agency of the District.

[...]

D.C. Code § 1-604.06. Personnel authority.

(a) The implementation of the rules and regulations shall be undertaken by the appropriate personnel authority for employees of the District.

(b) For the purposes of subsection (a) of this section, the personnel authority for District of Columbia government means the Mayor for all employees, except as provided in § 1-602.03 and as follows:

(1) For noneducational employees of the District of Columbia Board of Education, the personnel authority is the District of Columbia Board of Education;

(2) For noneducational employees of the Board of Trustees of the University of the District of Columbia, the personnel authority is the Board of Trustee of the University of the District of Columbia;

(3) For employees of the Council of the District of Columbia, the personnel authority is:

(A)(i) The Chairman of the Council for all central staff of the Council and the employees in the Legal Services employed by the Council of the District of Columbia. For the purposes of this subchapter, the term "central staff of the Council" refers to those employees described in § 1-609.03(a)(3) except those assigned to an individual member of the Council; provided, however, that the Secretary, General Counsel, and Budget Director to the Council to the Council shall be appointed by the Council of the District of Columbia according to its rules of procedure and organization; and

(ii) For employees of the Council, the Chairman of the Council shall exercise the authority possessed by the Director of the Department of Human Resources and may adopt personnel procedures applicable to those employees; and

(B) each member of the Council for his or her personal and committee staff; provided, however, that the respective committees of the Council shall approve the appointment of each committee staffperson. The Chairman and each member of the Council shall utilize the Secretary to the Council for the actual transaction of all personnel matters for employees of the Council;

(3A) For the Executive Director of the Office of Advisory Neighborhood Commissions, the personnel authority is the Chairman of the Council;

(4) ~~For employees of the Board of Elections, the personnel authority is the Board of Elections; provided, however, that this authority shall not apply to the Director of Campaign Finance (§ 1-1163.02). For employees in the Office of Director of Campaign Finance, the~~

~~personnel authority is the Director of Campaign Finance;~~ For employees of the Board of Elections, the personnel authority is the Board of Elections;

(4A) For employees of the Board of Ethics and Government Accountability, the personnel authority is the Board of Ethics and Government Accountability;

(4B) For employees of the Campaign Finance Board, the personnel authority is the Campaign Finance Board;

[...]

D.C. Code § 1-609.08. Statutory officeholders.

The following employees of the District shall be deemed to be in the Excepted Service. Their terms of office shall be at the pleasure of the appointing authority, or as provided by statute for a term of years, subject to removal for cause as may be provided in their appointing statute:

(1) City Administrator;

(2) Repealed;

(3) The Director of Campaign Finance~~, District of Columbia Board of Elections and Ethics~~;

[...]

D.C. Code § 1-611.08. Compensation – Members of boards and commissions.

(a) Each member of any board or commission who receives compensation or reimbursement of expenses on January 1, 1980, shall receive such rates of compensation or reimbursement of expenses as are provided in existing law, rule, regulation, or order, or in this chapter, except as may be modified from time to time by rules and regulations published pursuant to subsection (b) of this section.

(a-1) Except as provided in subsection (a) of this section, members of boards and commissions shall not be compensated for time expended in the performance of official duties except as authorized by subsections (b), (c), (c-1), (c-2), and (c-3) of this section.

(b) The Mayor of the District of Columbia is authorized to establish by rule and regulation the rates of compensation or reimbursement of expenses for members of any board or commission, including any board or commission established after January 1, 1980. Any such rules and regulations proposed by the Mayor shall be transmitted to the Council of the District of Columbia for a 30-day (excluding Saturdays, Sundays, holidays, and days on which the Council of the District of Columbia is on recess) review period. Such rules and regulations shall become effective only if the Council of the District of Columbia does not adopt, within 30 days (excluding Saturdays, Sundays, holidays, and days on which the Council of the District of Columbia is on recess) from the date of the Mayor's submission, a resolution disapproving such rules and regulations in whole or in part. Notwithstanding the provisions of § 1-604.05, rules and regulations published under this subsection shall be effective no earlier than 30 days after their publication in the District of Columbia Register.

(c) Members of the following boards and commissions shall be entitled to compensation in the form of a salary as currently authorized by law:

(1) Public Service Commission;

(2) Contract Appeals Board;

(3) Rental Housing Commission;

(4) Repealed.

(5) District of Columbia Board of Ethics and Government Accountability; and

(6) Full-time members of the Real Property Tax Appeals Commission.

(c-1) Members of the following boards and commissions shall be entitled to compensation in the form of an hourly rate of pay as follows:

(1) Board of Zoning Adjustment members shall be entitled to compensation at the hourly rate of $25 for time spent in performance of duties at meetings, not to exceed $12,000 for each board member per year;

(2) Office of Employee Appeals members shall be entitled to compensation at the hourly rate of $25 for time spent in performance of duties at meetings, not to exceed $6,000 for each member per year;

(3) District of Columbia Retirement Board Members shall be entitled to compensation as provided in § 1-711(c);

(4) Police and Firefighters Retirement and Relief Board members shall be entitled to compensation at the hourly rate of $25 for time spent in performance of duties at meetings, not to exceed $8,000 for each board member per year;

(5) Public Employee Relations Board members shall be entitled to compensation at the hourly rate of $25 for time spent in performance of duties at meetings, not to exceed $6,000 for each board member per year;

(6) Zoning Commission members shall be entitled to compensation at the hourly rate of $25 for time spent in performance of duties at meetings, not to exceed $12,000 for each commission member per year;

(7) Historic Preservation Review Board members shall be entitled to compensation at the hourly rate of $25 for time spent in performance of duties at meetings, not to exceed $3,000 for each board member per year;

(8) Alcoholic Beverage Control Board members shall be entitled to compensation at the hourly rate of $40 for time spent in performance of duties at meetings, not to exceed $18,000 for each board member per year;

(9) Part-time members of the Real Property Tax Appeals Commission shall be entitled to compensation at the hourly rate of $50 for time spent in performance of duties at meetings;

(10) District of Columbia Board of Elections members shall be entitled to compensation at the hourly rate of $40 while actually in the service of the board, not to exceed the $12,500 for each member per year and $26,500 for the ~~Chairman~~ Chairperson per year.; and

(11) Campaign Finance Board members shall be entitled to compensation at the hourly rate of $40 while actually in the service of the Board, not to exceed $12,500 for each member per year and $26,500 for the Chairperson per year.

[...]

D.C. Code § 1-618.01. Standards of conduct.

(a) Each employee, member of a board or commission, or a public official of the District government must at all times maintain a high level of ethical conduct in connection with the performance of official duties, and shall refrain from taking, ordering, or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.

(a-1) As a matter of public policy, each employee, member of a board or commission, or a public official of the District is encouraged to report, pursuant to subchapter XV-A of this chapter, any violation of a law or rule, or the misuse of government resources, as soon as the employee, member of a board or commission, or a public official becomes aware of the violation or misuse of resources.

(a-2)(1) Upon commencement of employment, any person required to file pursuant to §§ 1-1162.24 and 1-1162.25 ("Filers") shall be provided with an ethics manual and information about the Code of Conduct.

(2) No later than 90 days after commencement of employment, Filers, and members appointed by the Mayor to a board or commission pursuant to section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142, D.C. Official Code § 1–523.01), shall certify that they have undergone ethics training developed by the District of Columbia Board of Ethics and Government Accountability. The required training may be provided electronically, in person, or both as considered appropriate by the District of Columbia Board of Ethics and Government Accountability.

[...]

Section 5

D.C. Code § 1-1001.03. Board of Elections – Created; composition; term of office; vacancies; reappointment; designation of Chairman.

(a) There is created a District of Columbia Board of Elections (hereafter in this subchapter referred to as the "Board"), to be composed of 3 members, no more than 2 of whom shall be of the same political party, appointed by the Mayor, with the advice and consent of the Council. Members shall be appointed to serve for terms of 3 years, except the members 1st appointed under this subchapter. One member shall be appointed to serve for a 1-year term, 1 member shall be appointed to serve for a 2-year term, and 1 member shall be appointed to serve for a 3-year term, as designated by the Mayor.

(b) Any person appointed to fill a vacancy on the Board shall be appointed only for the unexpired term of the member whose vacancy he or she is filling.

(c) A member may be reappointed, and, if not reappointed, the member shall serve until his successor has been appointed and qualifies.

(d) The Mayor shall, from time to time, designate ~~the Chairman~~ the Chairperson of the Board.

[...]

D.C. Code § 1-1001.04 – Board of Elections – Qualifications' prohibited activities; compensation; removal; time for filling vacancy.

(a) When appointing a member of the Board, the Mayor and Council shall consider whether the individual possesses demonstrated integrity, independence, and public credibility and whether the individual has particular knowledge, training, or experience ~~in government ethics or~~ in elections law and procedure. A person shall not be a member of the Board unless he or she:

(1) Is a duly registered voter;

(2) Has resided in the District continuously since the beginning of the 3-year period ending on the day he or she is appointed; and

(3) Holds no other paid office or employment in the District government.

(b) No person, while a member of the Board, shall:

(1) Campaign for any other public office;

(2) Hold any office in any political party or political committee;

(3) Participate in or contribute to any political campaign of any candidate in any election held under this subchapter;

(3A) Be an officer or a director of an organization receiving District funds, or an employee of an organization receiving District funds, who has managerial or discretionary responsibilities with respect to those funds;

(4) Act in his or her capacity as a member, to directly or indirectly attempt to influence any decision of a District government agency, department, or instrumentality relating to any action which is beyond the jurisdiction of the Board; or

(5) Be convicted of having committed a felony in the District of Columbia; or if the crime is committed elsewhere, conviction of such offense as would be a felony in the District of Columbia.

(c) ~~Each member of the Board, including the Chairman, shall receive compensation as provided in § 1-611.08(c)(2).~~ Each member of the Board, including the Chairperson, shall receive compensation as provided in section 1108(c-1)(10) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.08(c-1)(10)).

[...]

D.C. Code § 1-1001.05. Board of Elections – Duties.

(a) The Board shall:

(1) Accurately maintain a uniform, interactive computerized voter registration list which shall serve as the official voter registration list for all elections in the District, and shall contain the name, registration information, and a unique identifier assigned for every registered voter in the District. The voter registration list shall be administered pursuant to the Help America Vote Act of 2002 and pertinent federal and local law, and shall be coordinated with other District agency databases;

(2) Take whatever action is necessary and appropriate to actively locate, identify, and register qualified voters;

(3) Conduct elections;

(4) Provide for recording and counting votes by means of ballots or machines or both; provided, that the Board may begin counting votes 15 days before the day of the election, but may not publish or disclose tabulation results before 8:00 p.m. on the day of the election;

(5) Publish in the District of Columbia Register no later than 45 days before each election held under this subchapter, a fictitious name sample design and layout of the ballot to be used in the election. This requirement shall not apply to any special election to fill a vacancy in an Advisory Neighborhood Commission single-member district;

(6) Publish in 1 or more newspapers of general circulation in the District, a sample copy of the official ballot to be used in any such election, provided, however, nothing contained

herein shall require the publication of a sample copy of the official ballots to be used in the advisory neighborhood commissions' elections;

(7) Publish in the District of Columbia Register on the 3rd Friday of every month, the total number of qualified electors registered to vote in the District as of the last day of the month preceding publication. Such notice shall be broken down by ward and political party affiliation, where applicable, and shall list the total number of new registrants, party changes, cancellations, changes of names, and/or addresses processed under each category;

(8) Divide the District into appropriate voting precincts, each of which shall contain at least 350 registered persons; draw precinct lines within election wards created by the Council, subject to the approval of the Council, in whole or in part, by resolution;

(9) Operate polling places;

(10) Provide information regarding procedures for voter registration and absentee ballots to absent uniformed services voters and overseas voters in United States elections, accept valid voter registration applications, absentee ballot applications, and absentee ballots including write-in ballots from all of those voters, and comply with the Uniformed and Overseas Citizens Absentee Voting Act, approved August 28, 1966 (100 Stat. 924; 42 U.S.C. § 1873ff et seq.);

(10A) Accept absentee ballots received by the Board by 8:00 p.m. on the day of the election;

(11) Certify nominees and the results of elections in sufficient time to comply with the requirements of the Uniformed and Overseas Citizens Absentee Voter Act, approved August 28, 1986 (100 Stat. 924; 42 U.S.C. § 1973ff et seq.);

(12) Take all reasonable steps to inform all residents and voters of elections and means of casting votes therein;

(13) Repealed;

(14) Issue such regulations and expressly delegate authority to officials and employees of the Board (such delegations of authority only to be effective upon publication in the District of Columbia Register) as are necessary to carry out the purposes of this subchapter, ~~Chapter 11A of this title,~~ subchapter VII of this chapter, and related acts requiring implementation by the Board. The regulations authorized by this paragraph include those necessary to: Determine that candidates meet the statutory qualifications for office; define the form of petitions; establish rules for the circulation and filing of petitions; establish criteria to determine the validity of signatures on petitions; and provide for the registration of any political party seeking to nominate directly candidates in any general or special election;

[...]

(e)(1)(A) The Board shall select, employ, and fix the compensation for an Executive Director and such staff the Board deems necessary, subject to the pay limitations of § 1-611.16. The Executive Director shall serve at the pleasure of the Board. ~~The Board, at the request of the Director of Campaign Finance, shall provide employees, subject to the compensation provisions of this paragraph, as requested to carry out the powers and duties of the Director. Employees assigned to the Director shall, while so assigned, be under the direction and control of the Director and may not be reassigned without the concurrence of the Director.~~

(B) The Executive Director shall be a District resident throughout his or her term and failure to maintain District residency shall result in a forfeiture of the position.

(C) Notwithstanding the provisions of Unit A of Chapter 14 of Title 2, each qualified District resident applicant shall receive an additional 10-point preference over a qualified non-District resident applicant for all positions within the Board unless the applicant declines the

preference. This 10-point preference shall be in addition to, and not instead of, qualifications established for the position. All persons hired after February 6, 2008, shall submit proof of residency upon employment in a manner determined by the Board. An applicant claiming the hiring preference under this section shall agree in writing to maintain bona fide District residency for a period of 7 consecutive years from the effective date of hire and shall provide proof of bona fide residency annually to the director of personnel of the Board for the first 7 years of employment. Failure to maintain District residency for the consecutive 7-year period shall result in forfeiture of employment. The Board shall submit to the Mayor and Council annual reports detailing the names of all new employees, their pay schedules, titles, and place of residence.

(2) No provision of this subchapter shall be construed as permitting the Board to appoint any personnel who are not full-time paid employees of the Board to preliminarily determine alleged violations of the law affecting elections, conflicts of interest, or lobbying.

(3) The Board may appoint a General Counsel to serve at the pleasure of the Board. The General Counsel shall be entitled to receive compensation at the same rate as the Executive Director of the Board and shall be responsible solely to the Board. The General Counsel shall perform such duties as may be delegated or assigned to him or her by rule or order of the Board.

(4)(A) The Board shall select, appoint, and fix the compensation of temporary election workers to operate the polling places, including precinct captains who shall oversee the operations of polling places in accordance with rules prescribed by the Board, and polling place workers who shall assist the precinct captains. Precinct captains shall be qualified registered electors in the District. Polling place workers shall be qualified registered electors in the District; provided, that the Board may also appoint as polling place workers individuals who are at least 16 years of age on the day that they are working in this capacity, who reside in the District of Columbia, and who are enrolled in or have graduated from a public or private secondary school or an institution of higher education. Any polling place worker shall be required to:

(i) Complete at least 4 hours of training;

(ii) Receive certification as a polling place worker under standards that the Board shall promulgate; and

(iii) Take and sign an oath of office to honestly, faithfully, and promptly perform the duties of office.

(B) The Board shall establish standards to measure the performance of polling place workers, including the past performance of a polling place worker, and shall consider the polling place worker's past performance before appointing him or her to work as a polling place worker in a subsequent election.

(f)(1) The Board shall prescribe such regulations as may be necessary to ensure that all persons responsible for the proper administration of this subchapter maintain a position of strict impartiality and refrain from any activity which would imply support or opposition to:

(A) A candidate or group of candidates for office in the District of Columbia; or

(B) Any political party or political committee.

(2) As used in this subsection, the terms "office," "political party," and "political committee" shall have the same meaning as that prescribed in § 1-1161.01.

(g) Notwithstanding provisions of the District of Columbia Administrative Procedure Act (§ 2-501 et seq.), the Board may hear any case brought before it under this subchapter ~~or under Chapter 11A of this title~~ by 1 member panels. An appeal from a decision of any such 1 member panel may be taken to either the full Board or to the District of Columbia Court of Appeals, at the

option of any adversely affected party. If appeal is taken directly to the District of Columbia Court of Appeals, the decision of a 1 member panel shall be, for purposes of such appeal, considered to be a final decision of the Board. If an appeal is taken from a decision of a 1 member panel to the full Board, the decision of the 1 member panel shall be stayed pending a final decision of the Board. The Board may, upon a vote of the majority of its members, hear de novo all issues of fact or law relating to an appeal of a decision of a 1 member panel, except the Board may decide to consider only the record made before such 1 member panel. A final decision of the full Board, relating to an appeal brought to it from a 1 member panel, shall be appealable to the District of Columbia Court of Appeals in the same manner and to the same extent as all other final decisions of the Board.

[...]

D.C. Code § 1-1001.05a. Advisory opinions.

(a)(1) On its own initiative, or upon receiving a request from a person listed below and within a reasonable time after its receipt, the Board shall provide an advisory opinion regarding compliance with this act:

(A) An elected official or a candidate to be an elected official;

(B) Any person required to or who reasonably anticipates being required to submit filings to the Board under this act in connection with a pending election or any subsequent election; or

(C) Any other person under the jurisdiction of the Board.

(2)(A) The Board shall publish a concise statement of each request for an advisory opinion, without identifying the person seeking the opinion, in the District of Columbia Register within 20 days after its receipt by the Board. Comments upon the requested opinion shall be received by the Board for a period of at least 15 days following publication of the concise statement.

(B) The Board may waive the requirements of subparagraph (A) of this paragraph, following a finding that the issuance of the advisory opinion constitutes an emergency necessary for the immediate preservation of the public peace, health, safety, welfare, or trust.

(b) Advisory opinions shall be published in the District of Columbia Register within 30 days after their issuance; provided, that the identity of a person requesting an advisory opinion shall not be disclosed in the District of Columbia Register without his or her prior consent in writing. When issued according to rules of the Board, an advisory opinion shall be deemed to be an order of the Board.

(c) There shall be a rebuttable presumption that a transaction or activity undertaken by a person in reliance on an advisory opinion from the Board is lawful if:

(1) The person requested the advisory opinion;

(2) The facts on which the opinion is based are full and accurate, to the best knowledge of the person; and

(3) The person, in good faith, substantially complies with any recommendations in the advisory opinion.

D.C. Code § 1-1001.18. Enforcement of act; penalties.

(a) Recommendations of criminal or civil, or both, violations of this act shall be presented by the General Counsel to the Board in accordance with the rules and regulations adopted by the Board in accordance with the provisions of Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*).

(b) Any person who violates any provision of this act may be assessed a civil penalty for each violation of not more than $2,000 by the Board pursuant to subsection (d) of this section. For the purposes of this section, each day of noncompliance with an order of the Board shall constitute a separate offense.

(c) A person who aids, abets, or participates in the violation of any provision of this act shall be subject to a civil penalty not to exceed $1,000.

(d)(1) A civil penalty shall be assessed by the Board by order. An order assessing a civil penalty may be issued only after the person charged with a violation has been given an opportunity for a hearing and the Board has determined, by a decision incorporating its findings of facts, that a violation did occur, and the amount of the penalty. Any hearing under this section shall be on the record and shall be held in accordance with Chapter 5 of Title 2.

(2) If a person against whom a civil penalty is assessed fails to pay the penalty, the Board shall file a petition for enforcement of its order assessing the penalty in the Superior Court of the District of Columbia. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall be sent by registered or certified mail to the respondent and the respondent's attorney of record, and the Board shall certify and file in court the record upon which the order sought to be enforced was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying and enforcing as so modified, or setting aside, in whole or in part, the order and the decision of the Board or it may remand the proceedings to the Board for further action as it may direct. The court may determine de novo all issues of law, but the Board's findings of fact, if supported by substantial evidence, shall be conclusive.

(e) For the purposes of this act, actions of an agent acting for a candidate shall be imputed to the candidate; provided, that the actions of the agent may not be imputed to the candidate in the presence of a provision of law requiring a willful and knowing violation of this act, unless the agency relationship to engage in the act is shown by clear and convincing evidence.

Section 6

D.C. Code § 1-1161.01. Definitions.

For the purposes of this chapter, the term:

(1) "Administrative decision" means any activity directly related to action by an executive agency to issue a Mayor's order, to cause to be undertaken a rulemaking proceeding (which does not include a formal public hearing) under Chapter 5 of Title 2, or to propose legislation or make nominations to the Council, the President, or Congress.

(2) "Administrative Procedure Act" means Chapter 5 of Title 2 [§ 2-501 et seq.].

(2A) "Affiliated entity" means each business entity that is related to an entity by virtue of one of the following relationships:

(A) One of the entities controls the other; or

(B) The entities share a controller, whether that controller is another entity or an individual.

(3) "Affiliated organization" means:

(A) An organization or entity:

(i) In which the employee serves as officer, director, trustee, general partner, or employee;

(ii) In which the employee or member of the employee's household is a director, officer, owner, employee, or holder of stock worth $1,000 or more at fair market value; or

(iii) That is a client of the employee or a member of the employee's household; or

(B) A person with whom the employee is negotiating for or has an arrangement concerning prospective employment.

(3A) "Base amount" means the amounts a participating candidate is eligible to receive as lump-sum payments under section 332d.

(3B) "Bundled" or "bundling" means to forward or arrange to forward two or more contributions from one or more persons by a person who is not acting with actual authority as an agent or principal of a committee. Hosting a fundraiser, by itself, shall not constitute bundling.

(4) "Business or business entity" means any corporation, partnership, sole proprietorship, firm, nonprofit corporation, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock, trust, and any legal entity through which business is conducted, whether for profit or not.

(4A) "Business contributor" means a business entity making a contribution and all of that entity's affiliated entities.

(5) "Business with which he or she is associated" means any business of which the person or member of his or her household is a director, officer, owner, employee, or holder of stock worth $1,000 or more at fair market value, and any business that is a client of that person.

(5A) "Campaign Finance Board" means the Campaign Finance Board established by section 302.

(6) "Candidate" means an individual who seeks ~~nomination for election, or~~ election~~,~~ to public office, whether or not the individual is nominated or elected. An individual deemed to be a candidate for the purposes of this chapter shall not be deemed, solely by reason of that status, to be a candidate for the purposes of any other law. For the purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if the individual:

(A) Obtained or authorized any other person to obtain nominating petitions to qualify the individual for ~~nomination for election, or~~ election~~,~~ to public office;

(B) Received contributions or made expenditures, or has given consent to any other person to receive contributions or make expenditures, with a view to bringing about the individual's ~~nomination for election, or~~ election~~,~~ to public office; or

(C) ~~Knows, or has reason to know, that any other person has received contributions or made expenditures for that purpose, and has not notified that person in writing to cease receiving contributions or making expenditures for that purpose; provided, that an individual shall not be deemed a candidate if the individual notifies each person who has received contributions or made expenditures that the individual is only testing the waters, has not yet made any decision whether to seek nomination or election to public office, and is not a candidate. Knows, or has reason to know, that any other person has received contributions or made expenditures for that purpose, and~~

~~has not notified that person in writing to cease receiving contributions or making expenditures for that purpose; provided, that an individual shall not be deemed a candidate if the individual notifies each person who has received contributions or made expenditures that the individual is only testing the waters, has not yet made any decision whether to seek nomination or election to public office, and is not a candidate.~~ Knows, or has reason to know, that any other person has received contributions or made expenditures for that purpose, and has not notified that person in writing to cease receiving contributions or making expenditures for that purpose; provided, that an individual shall not be deemed to be a candidate if the individual notifies each person who has received contributions or made expenditures that the individual is only testing the waters, has not yet made any decision whether to seek election to public office, and is not a candidate.

(6A) "Candidate seeking certification" means a candidate for a covered office who: "(A) Has complied with section 312; and "(B) Indicated on the registration statement that the candidate will seek certification as a participating candidate under section 332c.

(7) "Code of Conduct" means those provisions contained in the following:

(A) For members and employees of the Council, the Code of Official Conduct of the Council of the District of Columbia, as adopted by the Council;

(B) Sections 1-618.01 through 1-618.02;

(C) Chapter 7 of Title 2 [§ 2-701 et seq.)];

(D) Section 2-354.16;

(E) For employees and public officials who are not members or employees of the Council, Chapter 18 of Title 6B of the District of Columbia Municipal Regulations;

(E-i) Chapter 11B of this title [§ 1-1171.01 et seq.];

(F) Parts C, D, and E of subchapter II, and part F of subchapter III of this chapter for the purpose of enforcement by the Elections Board of violations of § 1-1163.38 that are subject to the penalty provisions of § 1-1162.21.

(G) Section 1-329.01, concerning gifts to the District of Columbia.

(8) "Commodity" means commodity as defined in section 1a of the Commodity Exchange Act, approved September 21, 1922 (42 Stat. 998; 7 U.S.C. § 1a).

(9) ~~"Compensation" means~~ "Compensation", for the purposes of Subtitle E of Title II, means any money or an exchange of value received, regardless of its form, by a person acting as a lobbyist.

(9A) "Contested election" means an election for a seat for a covered office for which there are at least 2 candidates, at least one of whom is a participating candidate.

(9B) "Contracting authority" means:

(A) The Chief Procurement Officer, as defined in section 104(11) of the PPRA;

(B) Any agency listed in section 201(b) of the PPRA;

(C) Any agency listed in section 105(c) of the PPRA that transmits contracts to the Council for approval pursuant to section 202 of the PPRA; and

(D) The Council of the District of Columbia.

(10)(A) "Contribution" means:

(i) A gift, subscription (including any assessment, fee, or membership dues), loan (except a loan made in the regular course of business by a business engaged in the business of making loans), advance, or deposit of money or anything of value (including contributions in cash or in kind), made for the purpose of financing, directly or indirectly:

(I) The ~~nomination or~~ election of a candidate;

(II) Any operations of a political committee, ~~or~~ political action committee, or independent expenditure committee; or

(III) The campaign to obtain signatures on any initiative, referendum, or recall measure, or to bring about the ratification or defeat of any initiative, referendum, or recall measure;

(ii) A transfer of funds between:

(I) Political committees;

(II) Political action committees;

(III) A political committee and a political action committee; or

(IV) Candidates~~.~~ ; and

(iii) The payment, by any person other than a candidate, a political committee, political action committee, or independent expenditure committee of compensation for the personal services of another person that are rendered to such candidate or committee without charge or for less than reasonable value, or the furnishing of goods, advertising, or services to a candidate's campaign without charge or at a rate which is less than the rate normally charged for such services~~.~~; and

(iv) An expenditure that is coordinated with a public official, a political committee affiliated with a public official, or an agent of any person described in this sub-subparagraph.

(B) Notwithstanding subparagraph (A) of this paragraph, the term "contribution" does not include:

(i) Personal or other services provided without compensation by a person (including an accountant or an attorney) volunteering a portion or all of the person's time to or on behalf of a candidate, political committee, political action committee, or independent expenditure committee;

(ii) Communications by an organization other than a political party solely to its members and their families on any subject;

(iii) Communications (including advertisements) to any person on any subject by any organization that is organized solely as an issue-oriented organization, which communications neither ~~endorse nor oppose~~ support nor oppose any candidate for office;

(iv) Normal billing credit for a period not exceeding 30 days;

(v) Services of an informational or polling nature, designed to seek the opinion of voters concerning the possible candidacy of a qualified elector for public office, before such qualified elector becomes a candidate;

(vi) The use of real or personal property, and the costs of invitations, food, and beverages voluntarily provided by a person to a candidate in rendering voluntary personal services on the person's residential premises for related activities; provided, that expenses do not exceed $500 with respect to the candidate's election; and

(vii) The sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if the charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor; provided, that expenses do not exceed $500 with respect to the candidate's election.

(10A) "Control" or "controlling interest" means the practical ability to direct or cause to be directed the financial management policies of an entity. An ownership interest of 51% shall constitute a rebuttable presumption of control.

(10B)(A) "Coordinate" or "coordination" means to take an action, including making a contribution or an expenditure:

(~~A~~i) At the explicit or implicit request or suggestion of a ~~candidate or~~ public official, a political committee affiliated with a ~~candidate or~~ public official, or an agent of a ~~candidate or~~ public official or ~~of~~ a political committee affiliated with ~~the candidate or~~ a public official; or

(~~B~~ii) In cooperation, consultation, or concert with, or ~~W~~with ~~the~~ other material involvement of a ~~candidate or~~ public official, a political committee affiliated with a ~~candidate or~~ public official, or an agent of a ~~candidate or~~ public official or ~~of~~ a political committee affiliated with a ~~candidate or~~ public official.

(B) There shall be a rebuttable presumption that a contribution or an expenditure is coordinated with a public official, a political committee affiliated with a public official, or an agent of a public official or a political committee affiliated with a public official, if:

(i) The contribution or expenditure is made based on information that the public official, political committee affiliated with the public official, or an agent of a public official or a political committee affiliated with a public official, provided to the particular person making the contribution or expenditure about its needs or plans, including information about campaign messaging or planned expenditures;

(ii) The person making the contribution or expenditure retains the professional services of a person who also provides the public official, political committee affiliated with the public official, or an agent of a public official or a political committee affiliated with a public official, with professional services related to campaign or fundraising strategy;

(iii) The person making the contribution or expenditure is a political committee, political action committee, or independent expenditure committee that was established or is or was staffed in a leadership role by an individual who:

(I) Works or previously worked in a senior position or in an advisory capacity on the public official's staff or on the public official's principal campaign committee; or

(II) Who is a member of the public official's immediate family; or

(iv) The contribution or expenditure is made for the purpose of financing, directly or indirectly, the election of a candidate or a political committee affiliated with that candidate, and that candidate has fundraised for the person making the expenditure.

(10C)(A)(i) "Covered contractor" means any business entity, or a principal of a business entity, seeking or holding a contract or multiple contracts with the District government, but shall not include a labor organization.

(ii) For the purposes of this paragraph, "contract" means agreements with an aggregate value of $250,000 or more, including the value of any option period or similar contract extension or modification, for:

(I) The rendition of services;

(II) The furnishing of any goods, materials, supplies, or equipment;

(III) The construction, alteration or repair of any District government-owned or District government-leased property;

(IV) The acquisition, sale, lease, surplus, or disposition of any land or building;

(V) A licensing arrangement;

(VI) A tax exemption or abatement; or

(VII) A loan or loan guarantee, not including loans made for non-commercial purposes, such as educational loans or residential mortgage loans.

(B) Only contracts sought or held with overlapping contract periods shall be aggregated for the purposes of determining the aggregate value of multiple contracts under this paragraph.

(C) The term "seeking", for the purposes of a tax exemption or abatement, means that legislation authorizing that tax abatement or exemption is pending before the Council.

(10~~C~~D) "Covered office" means the office of Mayor, Attorney General, Chairman of the Council, member of the Council, and member of the State Board of Education.

(10~~D~~E) "Debate" means the public, moderated, reciprocal discussion of issues conducted by the Director of Campaign Finance pursuant to section 332g.

(11) "Direct and predictable effect" means there is:

(A) A close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest;

(B) A real, as opposed to a speculative possibility, that the matter will affect the financial interest; and

(C) The effect is more than de minimis.

(12) "Director of Campaign Finance" means the Director of Campaign Finance of the ~~Elections Board~~ Campaign Finance Board created by § 1-1163.02.

(13) "Director of Government Ethics" means the Director of Government Ethics created by § 1-1162.06.

(14) "Domestic partner" shall have the same meaning as provided in § 32-701(3).

(15) "Election" means a primary, general, or special election held in the District of Columbia for the purpose of nominating an individual to be a candidate for election to public office, or for the purpose of electing a candidate to office to public office, or for the purpose of deciding an initiative, referendum, or recall measure, and includes a convention or caucus of a political party held for the purpose of nominating such a candidate.

(16) "Election Code" means subchapter I of Chapter 10 of this title [§ 1-1001.01 et seq.].

(16A) "Election cycle" means:

(A) The period beginning on the day after the date of the most recent general election for a seat for a covered office and ending on the date of the next general election for that seat for the covered office; or

(B) In the case of a special election for a seat for a covered office, the period beginning on the day the special election is called and ending on the date of the special election for that seat for the covered office.

(17) "Elections Board" means the District of Columbia Board of Elections established under the Election Code, and redesignated by § 1-1163.05.

(18) "Employee" means, unless otherwise apparent from the context, a person who performs a function of the District government and who receives compensation for the performance of such services, or a member of a District government board or commission, whether or not for compensation.

(18A) "Entity" shall have the same meaning as provided in § 29-101.02.

(19) "Ethics Board" means the District of Columbia Board of Ethics and Government Accountability established by § 1-1162.02.

(20) "Executive agency" means:

(A) A department, agency, or office in the executive branch of the District government under the direct administrative control of the Mayor;

(B) The State Board of Education or any of its constituent elements;

(C) The University of the District of Columbia or any of its constituent elements;

(D) The Elections Board~~; and~~ ;

(E) Any District professional licensing and examining board under the administrative control of the executive branch~~.~~ ; and

(F) The Campaign Finance Board.

(21)(A) "Expenditure" means:

(i) A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of financing, directly or indirectly:

(I) The ~~nomination or~~ election of a candidate;

(II) Any operations of a political committee, political action committee, or independent expenditure committee; or

(III) The campaign to obtain signatures on any initiative, referendum, or recall petition, or to bring about the ratification or defeat of any initiative, referendum, or recall measure;

(ii) A transfer of funds between:

(I) Political committees;

(II) Political action committees;

(III) A political committee and a political action committee; or

(IV) Candidates.

(B) Notwithstanding subparagraph (A) of this paragraph, the term "expenditure" does not include incidental expenses (as defined by the ~~Elections Board~~ Campaign Finance Board or Ethics Board) made by or on behalf of a person in the course of volunteering that person's time on behalf of a candidate, political committee, or political action committee or the use of real or personal property and the cost of invitations, food, or beverages voluntarily provided by a person to a candidate in rendering voluntary personal services on the person's residential premises for candidate-related activity; provided, that the aggregate value of such activities by such person on behalf of any candidate does not exceed $500 with respect to any election.

(22) ~~"Exploratory committee" means any person, or group of persons, organized for the purpose of examining or exploring the feasibility of an individual's becoming a candidate for an elective office in the District.~~ "Exploratory committee" means any person, or group of persons, organized for the purpose of exploring the feasibility of an individual becoming a candidate for public office in the District.

(22A) "Fair elections committee" means a political committee that only accepts contributions from:

(A) Individuals who are District residents, which shall not exceed $250 per individual per calendar year; or

(B) A membership organization, if the contributions consist of membership dues paid by individuals who are District residents that do not exceed:

(i) The amount of membership dues actually paid per member per calendar year; and

(ii) $250 per member per calendar year.

(22B) "Fair Elections Fund" means the fund established by section 332i.

(22C) "Fair Elections Program" means the program to provide for publicly funded campaigns, established by section 332a.

(23) "Gift" means a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, unless consideration of equal or greater value is received. The term "gift" shall not include:

(A) A contribution otherwise reported as required by law;

(B) A commercially reasonable loan made in the ordinary course of business; or

(C) A gift received from a member of the person's immediate family.

(24) "Home Rule Act" means Chapter 2 of this title [§ 1-201.01 *et seq.*].

(25) "Household" means a public official or employee and any member of his or her immediate family with whom the public official or employee resides.

(26) "Immediate family" means the spouse or domestic partner of a public official or employee and any parent, grandparent, brother, sister, or child of the public official or employee, and the spouse or domestic partner of any such parent, grandparent, brother, sister, or child.

(27) "Inaugural committee" means a person, or group of persons, organized for the purpose of soliciting, accepting, and ~~spending~~ expending funds and coordinating activities to celebrate the election of a new Mayor.

(28) "Income" means gross income as defined in section 61 of the Internal Revenue Code (26 U.S.C. § 61).

(28A) "Independent expenditure" means an expenditure that is:

(A) Made for the ~~principal~~ purpose of promoting or opposing:

(i) The nomination or election of a candidate;

(ii) A political party; or

(iii) Any initiative, referendum, or recall~~; and~~ ;

(B) Not controlled by or coordinated with:

(i) Any public official ~~or candidate; or~~;

(ii) An~~y person acting on behalf~~ agent of a public official ~~or candidate~~, including a political committee; and

(C) Not a contribution to a political committee, political action committee, or candidate.

(28B) "Independent expenditure committee" means any committee, club, association, organization, or other group of individuals that:

(A) Is organized for the ~~principal~~ purpose of making independent expenditures;

(B) Is not controlled by or coordinated with:

(i) Any public official ~~or candidate~~; or

(ii) An~~y person acting on behalf~~ agent of a public official ~~or candidate~~, including a political committee; and

(C) ~~Makes no transfer or contributions of funds to:~~ Does not transfer or contribute to:

(i) Political committees;

(ii) Political action committees; or

(iii) Candidates.

(28C) "Individual" means a natural person."

(29) "Internal Revenue Code" means the Internal Revenue Code of 1954, approved August 16, 1954 (68A Stat. 3; 26 U.S.C. § 1 et seq.), and the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 et seq.), as amended from time to time.

(30) "Legal defense committee" means a person or group of persons organized for the purpose of soliciting, accepting, and ~~spending~~ expending funds to defray the professional fees and costs for a public official's legal defense to one or more civil, criminal, or administrative proceedings arising directly out of the conduct of a campaign, the election process, or the performance of the public official's governmental activities and duties.

(31) "Legislative action" includes any activity conducted by an official in the legislative branch in the course of carrying out his or her duties as such an official, and relating to the introduction, passage, or defeat of any legislation in the Council.

(32)(A) "Lobbying" means communicating directly with any official in the legislative or executive branch of the District government with the purpose of influencing any legislative action or an administrative decision.

(B) The term "lobbying" shall not include:

(i) The appearance or presentation of written testimony by a person on his or her own behalf, or representation by an attorney on behalf of any such person in a rulemaking (which includes a formal public hearing), rate-making, or adjudicatory hearing before an executive agency or the Tax Assessor;

(ii) Information supplied in response to written inquiries by an executive agency, the Council, or any public official;

(iii) Inquiries concerning only the status of specific actions by an executive agency or the Council;

(iv) Testimony given before the Council or a committee of the Council, during which a public record is made of such proceedings or testimony submitted for inclusion in such a public record;

(v) A communication made through the instrumentality of a newspaper, television, or radio of general circulation, or a publication whose primary audience is the organization's membership; and

(vi) Communications by a bona fide political party.

(33)(A) "Lobbyist" means any person who engages in lobbying.

(B) Public officials communicating directly or soliciting others to communicate with other public officials shall not be deemed lobbyists for the purposes of this chapter; provided, that a public official does not receive compensation in addition to his or her salary for such communication or solicitation and makes such communication and solicitation in his or her official capacity.

(33A) "Matching payments" means payments provided to a participating candidate for qualified small-dollar contributions under section 332e.

(33B) "Material involvement" means, with respect to a contribution or expenditure, any communication to or from a ~~candidate or~~ public official, political committee affiliated with a ~~candidate or~~ public official, or any agent of a ~~candidate or~~ public official or political committee affiliated with a ~~candidate or~~ public official, related to the contribution or expenditure. Material involvement includes devising or helping to devise the strategy, content, means of dissemination, or timing of the contribution or expenditure, or making any express or implied solicitation of the contribution or expenditure.

(33C) "Membership organization" means an organization that:

(A) Is tax-exempt under section 501(c) of the Internal Revenue Code;

(B) Is comprised of members who are individuals, whether or not the organization also has affiliated organizations; provided, that all of the members are required as a condition of

membership to pay dues at least annually in amounts predetermined by the membership organization;

(C) Expressly solicits individuals to become members and expressly acknowledges acceptance of membership; and

(D) Is neither a political committee nor otherwise organized for the principal purpose of promoting or opposing the nomination or election of a person to local, state, or federal public office.

(34) "Merit Personnel Act" means Chapter 6 of this title [§ 1-601.01 et seq.].

(34A) "Non-contribution account" means a financial account of a political action committee that is segregated from other accounts of the political action committee and is used for the sole purpose of making independent expenditures.

(35) "Office" means the office of Mayor, Attorney General, Chairman of the Council, member of the Council, member of the State Board of Education, or an official of a political party.

(36) "Official in the executive branch" means:

(A) The Mayor;

(B) Any officer or employee in the Executive Service;

(C) Persons employed under the authority of §§ 1-609.01 through 1-609.03 (except § 1-609.03(a)(3)) paid at a rate of DS-13 or above in the General Schedule or equivalent compensation under the provisions of subchapter XI of Chapter 6 of this title [§ 1-611.01 et seq.] or designated in § 1-609.08 (except paragraphs (9) and (10) of that section; or

(D) Members of boards and commissions designated in § 1-523.01(e).

(37) "Official in the legislative branch" means any candidate for Chairman or member of the Council in a primary, special, or general election, the Chairman or Chairman-elect or any member or member-elect of the Council, officers, and employees of the Council appointed under the authority of §§ 1-609.01 through 1-609.03 or designated in § 1-609.08.

(38) "Official of a political party" means:

(A) National committeemen and national committeewomen;

(B) Delegates to conventions of political parties nominating candidates for the Presidency and Vice Presidency of the United States;

(C) Alternates to the officials referred to in subparagraphs (A) and (B) of this paragraph, where permitted by political party rules; and

(D) Such members and officials of local committees of political parties as may be designated by the duly authorized local committees of such parties for election, by public ballot, at large or by ward in the District.

(39) "Open Government Office" means the District of Columbia Open Government Office established by § 2-592.

(40) "Open Meetings Act" means subchapter IV of Chapter 5 of Title 2 [§ 2-571 et seq.].

(40A) "Participating candidate" means a candidate for a seat for a covered office who is certified under section 332c.

(41) "Particular matter" is limited to meaning a deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons.

(42) "Person" means an individual, partnership, committee, corporation, labor organization, and any other organization.

(43) "Person closely affiliated with the employee" means a spouse, dependent child, general partner, a member of the employee's household, or an affiliated organization.

(43A) "Political action committee" means any committee, club, association, organization, or other group of individuals that is:

(A) Organized for the ~~principal~~ purpose of promoting or opposing:

(i) The ~~nomination or~~ election of a person to public office;

(ii) A political party; or

(iii) Any initiative, referendum, or recall; and

(B) Not controlled by or coordinated with:

(i) Any public official ~~or candidate;~~ or

(ii) An~~y person acting on behalf~~ agent of a public official ~~or candidate~~, including a political committee; and

(44) "Political committee" means any committee ~~(including any principal campaign, inaugural, exploratory, transition, or legal defense committee)~~, club, association, organization, or other group of individuals that is:

(A) Organized for the ~~principal~~ purpose of promoting or opposing:

(i) The ~~nomination or~~ election of a person to public office;

(ii) A political party; or

(iii) Any initiative, referendum, or recall; or

(B) An inaugural, transition, or legal defense committee; and

(C) Controlled by or coordinated with any ~~candidate or~~ public official~~;~~ or ~~controlled by or coordinated with anyone acting on behalf~~ agent of a ~~candidate or~~ public official.

(45) "Political party" means an association, committee, or organization that nominates a candidate for election to any office and qualifies under subchapter I of Chapter 10 of this title [§ 1-1001.01 *et seq.*] to have the names of its nominees appear on the election ballot as the candidate of that association, committee, or organization.

(45A) "PPRA" means the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 et seq.).

(45B) "Principal" of a business entity, for purposes of paragraph (10C) of this section, means senior officers of that business entity, such as president, executive director, chief executive officer, chief operating officer, or chief financial officer. If a business entity is an educational institution, "principal" shall not include deans of that business entity.

(45C) "Prohibited period" means:

(A) For the types of contracts described in paragraph (10C)(A)(ii)(I), (I), (III), and (IV) (but not leases, surpluses, or dispositions) of this section, from the date of the solicitation or similar invitation or opportunity to contract to:

(i) If the covered contractor's response to the solicitation is unsuccessful, the termination of negotiations or notification by the District that the covered contractor's response was unsuccessful;

(ii) If the covered contractor's response to the solicitation is successful, one year after the termination of the contract;

(B) For the types of contracts described in paragraphs (10C)(A)(ii)(IV) (only leases), (V), and (VII) of this section, from the date of the solicitation or similar invitation or opportunity to contract to:

(i) If the covered contractor's response to the solicitation is unsuccessful, the termination of negotiations or notification by the District that the covered contractor's response was unsuccessful;

(ii) If the covered contractor's response to the solicitation is successful, one year after the entrance into the contract;

(C) For the types of contracts described in paragraph (10C)(A)(ii)(IV) (only surpluses and dispositions) of this section, from the date of the solicitation or similar invitation or opportunity to contract to:

(i) If the covered contractor's response to the solicitation is unsuccessful before the introduction of legislation before the Council, the termination of negotiations or notification by the District that the covered contractor's response was unsuccessful;

(ii) If the covered contractor's response to the solicitation is successful and legislation is introduced before the Council:

(I) If the legislation is not passed before the end of that Council Period or is disapproved, the end of that Council period; or

(II) If the legislation passes, one year after the effective date of the legislation; and

(D) For the types of contracts described in paragraph (10C)(A)(ii)(VI) of this section, from the introduction of legislation, or the inclusion of such a contract in pending legislation, before the Council to:

(i) If the legislation is not passed before the end of that Council Period or is disapproved, the end of that Council Period; or

(ii) If the legislation passes, one year after the effective date of the legislation.

(45D) "Prohibited recipient" means:

(A) If the covered contractor is seeking or holding a contract, as defined in paragraph (10C)(A)(ii) of this section, with, or for which the procurement process would be overseen by, a District agency subordinate to the Mayor:

(i) The Mayor;

(ii) Any candidate for Mayor;

(iii) Any political committee affiliated with the Mayor or a candidate for Mayor; and

(iv) Any constituent-service program affiliated with the Mayor;

(B) If the covered contractor is seeking or holding a contract, as defined in paragraph (10C)(A)(ii) of this section, with the Office of the Attorney General:

(i) The Attorney General;

(ii) Any candidate for Attorney General; and

(iii) Any political committee affiliated with the Attorney General or a candidate for Attorney General; and

(C) If the covered contractor is seeking or holding a contract, as defined in paragraph (10C)(A)(ii) of this section, with the Council, that must come before the Council for its approval pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), or which must otherwise be approved by the Council legislatively to take effect (such as tax abatements or exemptions, or surpluses and dispositions of District property):

(i) Any Councilmember;

(ii) Any candidate for Councilmember;

(iii) Any political committee affiliated with a Councilmember or a candidate for Councilmember; and

(iv) Any constituent-service program affiliated with a Councilmember.

(46) "Prohibited source" means any person that:

(A) Has or is seeking to obtain contractual or other business or financial relations with the District government;

(B) Conducts operations or activities that are subject to regulation by the District government; or

(C) Has an interest that may be favorably affected by the performance or non-performance of the employee's official responsibilities.

(47) "Public official" means:

(A) A candidate ~~for nomination for election, or election, to public office~~;

(B) The Mayor, Chairman, and each member of the Council of the District of Columbia holding office under Chapter 2 of this title;

(C) The Attorney General;

(D) A Representative or Senator elected pursuant to § 1-123;

(E) An Advisory Neighborhood Commissioner;

(F) A member of the State Board of Education;

(G) A person serving as a subordinate agency head in a position designated as within the Executive Service;

(47A) "Qualified small-dollar contribution" means a deposit of money that:

(A) Is made for the purpose of financing the nomination or election of a candidate or any operations of a political committee;

(B) Meets the requirements of section 332b; and

(C) Is contributed by a small-dollar contributor to a candidate seeking certification or a participating candidate.

(47B) "Qualifying period" means:

(A) For a candidate running in a primary election, the period beginning on the day after the most recent general election for the seat for the covered office that the candidate is seeking and ending on the last day to file nominating petitions for the primary election for the seat for the covered office sought;

(B) For a candidate not running in a primary election, the period beginning on the day after the most recent general election for the seat for the covered office that the candidate is seeking and ending on the last day to file nominating petitions for the general election for the seat for the covered office sought; or

(C) For a candidate running in a special election, the period beginning on the day the special election is called and ending on the last day to file nominating petitions for the covered office sought.

(48) "Registrant" means a person who is required to register as a lobbyist under the provisions of § 1-1162.27.

(49) "Security" means a security as defined in section 2(1) of the Securities Act of 1933, approved May 27, 1933 (48 Stat. 74; 15 U.S.C. § 77b(1)).

(49A) "Small-dollar contributor" means an individual who:

(A) Is a District resident; and

(B) Contributes a qualified small-dollar contribution to a candidate seeking certification or a participating candidate.

(50) "Tax" means the taxes imposed under Chapter 1 of the Internal Revenue Code, under Chapter 18 of Title 47, and under the District of Columbia Public Works Act of 1954, approved

May 18, 1954 (68 Stat. 101; D.C. Official Code § 34-2101 passim); and any other provision of law relating to the taxation of property within the District.

(51) "Transactions in securities or commodities" means any acquisition, holding, withholding, use, transfer, or other disposition involving any security or commodity.

(52) "Transition committee" means any person, or group of persons, organized for the purpose of soliciting, accepting, or expending funds for office and personnel transition on behalf of the Chairman of the Council or the Mayor.

(53) "Uncontested election" means an election for a seat for a covered office for which there is only one participating candidate.

D.C. Code § 1-1162.20. Reports.

(a) The Director of Government Ethics shall produce a quarterly report detailing:

(1) The posture of each complaint it received, including whether an investigation was initiated, is ongoing, or has concluded;

(2) The referrals made to and from the Ethics Board;

(3) Fines and penalties imposed by the Ethics Board;

(4) Allegations dismissed by the Ethics Board;~~ and~~

(5) Other action taken with regard to an allegation of a violation of the Code of Conduct~~.~~; and

(6) All political contributions, including bundled contributions, reported as required in section 230.

(b) The quarterly report shall be posted online.

[...]

D.C. Code § 1-1162.24. Public reporting.

(a)(1) Public officials, except Advisory Neighborhood Commissioners and candidates for ~~nomination for election, or~~ election~~,~~ to public office, who are not otherwise required to file pursuant to this paragraph, shall file with the Ethics Board a public report containing a full and complete statement of:

(A) The name of each business entity, including sole proprietorships, partnerships, trusts, nonprofit organizations, and corporations, whether or not transacting any business with the District of Columbia government, in or from which the public official or his or her spouse, domestic partner, or dependent children:

(i) Has a beneficial interest, including, whether held in such person's own name, in trust, or in the name of a nominee, securities, stocks, stock options, bonds, or trusts, exceeding in the aggregate $1,000, or that produced income of $200;

(ii) Receives honoraria and income earned for services rendered in excess of $200 during a calendar year, as well as the identity of any client for whom the official performed a service in connection with the official's outside income if the client has a contract with the government of the District of Columbia or the client stands to gain a direct financial benefit from legislation that was pending before the Council during the calendar year. The report required by this part shall include a narrative description of the nature of the service performed in connection with the official's outside income;

(iii) Serves as an officer, director, partner, employee, consultant, contractor, volunteer, or in any other formal capacity or affiliation; or

(iv) Has an agreement or arrangement for a leave of absence, future employment, including date of agreement, or continuation of payment by a former employer;

(B) Any outstanding individual liability in excess of $1,000 for borrowing by the public official or his or her spouse, domestic partner, or dependent children from anyone other than a federal or state insured or regulated financial institution, including any revolving credit and installment accounts from any business enterprise regularly engaged in the business of providing revolving credit or installment accounts, or a member of the person's immediate family;

(C) All real property located in the District (and its actual location) in which the public official or his or her spouse, domestic partner, or dependent children, has an interest with a fair market value in excess of $1,000, or that produced income of $200; provided, that this provision shall not apply to personal residences occupied by the public official, his or her spouse, or domestic partner;

(D) All professional or occupational licenses issued by the District of Columbia government held by a public official or his or her spouse, domestic partner, or dependent children;

(E) All gifts received year by a public official from a prohibited source in an aggregate value of $100 in a calendar;

(F) An affidavit stating that the public official has not caused title to property to be placed in another person or entity for the purposes of avoiding the disclosure requirements of this subsection; and

(G) A certification that the public official has:

(i) Filed and paid his or her income and property taxes;

(ii) Diligently safeguarded the assets of the taxpayers and the District;

(iii) Reported known illegal activity, including attempted bribes, to the appropriate authorities;

(iv) Not accepted any bribes;

(v) Not directly or indirectly received government funds through illegal or improper means;

(vi) Not raised or received funds in violation of federal or District law; and

(vii) Not received or been given anything of value, including a gift, favor, service, loan gratuity, discount, hospitality, political contribution, or promise of future employment, based on any understanding that the public official's official actions or judgment or vote would be influenced.

(2) The Ethics Board may, on a case-by-case basis, exempt a public official from this requirement or some portion of this requirement for good cause shown.

(3)(A) An Advisory Neighborhood Commissioner who is not otherwise required to file a report pursuant to paragraph (1) of this subsection shall file the certification required by paragraph (1)(G) of this subsection for the preceding year.

(B) Effective January 1, 2015, a candidate for ~~nomination for election, or~~ election~~, to~~ public office who is not otherwise required to file a report pursuant to paragraph (1) of this subsection shall file the certification required by paragraph (1)(G) of this subsection for the preceding year.

(C) A candidate for ~~nomination for election, or~~ election~~, to~~ public office who, as of May 15, 2014, had not filed a report for calendar year 2013 required by this section and who was not otherwise required to file a report pursuant to paragraph (1) of this subsection shall not be required to do so.

[...]

D.C. Code § 1-1162.31. Prohibited activities.

(a) No registrant or anyone acting on behalf of a registrant shall offer, give, or cause to be given a gift or service to an official in the legislative or executive branch or a member of his or her staff that exceeds $100 in value in the aggregate in any calendar year. This section shall not be construed to restrict in any manner contributions authorized in §§ 1-1163.33, 1-1163.34, and 1-1163.38.

(b) No official in the legislative or executive branch or a member of his or her staff shall solicit or accept anything of value in violation of subsection (a) of this section.

(c) No person shall knowingly or willfully make or cause to be made any false or misleading statement or misrepresentation of the facts relating to pending administrative decisions or legislative actions to any official in the legislative or executive branch;

(d) No person shall, knowing a document to contain a false statement relating to pending administrative decisions or legislative actions, cause a copy of the document to be transmitted to an official in the legislative or executive branch without notifying the official in writing of the truth.

(e) No information copied from registration forms and activity reports required by this part or from lists compiled from such forms and reports shall be sold or utilized by any person for the purpose of soliciting campaign contributions or selling tickets to a testimonial or similar fundraising affair or for any commercial purpose.

(f) No public official shall be employed as a lobbyist while acting as a public official, except as provided in § 1-1162.28.

(g)(1) No lobbyist or registrant or person acting on behalf of the lobbyist or registrant, shall provide legal representation, or other professional services, to an official in the legislative or executive branch, or to a member of his or her staff, at no cost or at a rate that is less than the lobbyist or registrant would routinely bill for the representation or service in the marketplace.

(2) Notwithstanding paragraph (1) of this section, a nonprofit organization that routinely provides legal representation or other services to clients at no cost may provide such representation or services to such client when doing so serves the purposes for which such services are routinely provided.

(h) Registrants shall not bundle contributions to principal campaign committees, exploratory committees, inaugural committees, transition committees, or legal defense committees.

D.C. Code § 1-1163.02. ~~Office of Director of Campaign Finance established; enforcement of subchapter.~~ Campaign Finance Board established; duties; enforcement of title.

~~(a) There is established within the Elections Board the Office of Campaign Finance, which shall be headed by the Director of Campaign Finance. The Elections Board shall appoint the Director of Campaign Finance, who shall serve at the pleasure of the Elections Board. The Director~~

~~of Campaign Finance shall be entitled to receive compensation at the maximum rate for Grade 16 of the District Schedule, pursuant to subchapter XI of Chapter 6 of this title [§ 1-611.01 et seq.]. The Director of Campaign Finance shall be responsible for the administrative operations of the Elections Board pertaining to this subchapter and shall perform other duties as may be delegated or assigned by regulation or by order of the Elections Board; provided, that the Elections Board shall not delegate to the Director of Campaign Finance the making of regulations regarding elections.~~

~~(b)(1) The Elections Board may issue, amend, and rescind rules and regulations related to the operation of the Director of Campaign Finance, absent recommendation of the Director of Campaign Finance.~~

~~(2) The Elections Board shall prepare an annual report of the Director of Campaign Finance's performance pursuant to his or her functions as prescribed § 1-1163.04, in addition to those duties the Elections Board may by law assign.~~

~~(c) Where the Elections Board, following the presentation by the Director of Campaign Finance of evidence constituting an apparent violation of this subchapter, makes a finding of an apparent violation of this subchapter, it shall refer the case for prosecution as provided for in § 1-1163.35, and shall make public the fact of such referral and the basis for the finding. In addition, the Elections Board, through its General Counsel, shall initiate, maintain, defend, or appeal any civil action (in the name of the Elections Board) relating to the enforcement of the provisions of this subchapter. The Elections Board may, through its General Counsel, petition the courts of the District of Columbia for declaratory or injunctive relief concerning any action covered by the provisions of this subchapter. The Director of Campaign Finance shall have no authority concerning the enforcement of provisions of subchapter I of Chapter 10 of this title [§ 1-1001.01 et seq.], and recommendations of criminal or civil, or both, violations under [subchapter I of Chapter 10 of this Title [§1-1001.01 et seq.], shall be presented by the General Counsel to the Elections Board in accordance with the rules and regulations of general application adopted by the Elections Board in accordance with the provisions of Chapter 5 of Title 2. Upon the direction of the Elections Board, the Director of Campaign Finance may be called upon to investigate allegations of violations of the elections laws in accord with the provisions of this subsection.~~

(a) There is established the Campaign Finance Board, whose purpose shall be to:

(1) Appoint a Director of Campaign Finance, who shall:

(A) Serve at the pleasure of the Campaign Finance Board; and

(B) Be compensated at the maximum rate for Grade 16 of the District Schedule, pursuant to Title XI of chapter 6 of the Merit Personnel Act;

(2) Annually review the performance of the Director of Campaign Finance;

(3) Administer and enforce the District's campaign finance laws;

(4) Refer alleged violations for prosecution as provided in this title; and

(5) Issue rules related to the District's campaign finance laws.

(b)(1) Where the Campaign Finance Board, following the presentation by the Director of Campaign Finance of evidence constituting an apparent violation of this title, makes a finding of an apparent violation of this title, it shall refer the case for prosecution as provided for in section 335, and shall make public the fact of such referral and the basis for the finding.

(2) The Campaign Finance Board, through its General Counsel:

(A) Shall initiate, maintain, defend, or appeal any civil action (in the name of the Campaign Finance Board) relating to the enforcement of the provisions of this title; and

(B) May petition the courts of the District of Columbia for declaratory or injunctive relief concerning any action covered by the provisions of this title.

D.C. Code § 1-1163.02a. Composition; term; qualifications; removal.

(a)(1) The Campaign Finance Board shall consist of 5 members, no more than 3 of whom shall be of the same political party, appointed by the Mayor with the advice and consent of the Council.

(2) Members shall be appointed to serve for terms of 6 years, except the members first appointed. Of the members first appointed, one member shall be appointed to serve for a 2-year term, 2 members shall be appointed to serve a 4-year term, and 2 members shall be appointed to serve a 6-year term, as designated by the Mayor. The terms of the 5 initial members shall begin on October 1, 2019.

(b) The Mayor shall designate the Chairperson of the Campaign Finance Board.

(c) Unless the unexpired term is less than 6 months, any person appointed to fill a vacancy on the Campaign Finance Board shall be appointed only for the unexpired term of the member whose vacancy he or she is filling.

(d) A member may be reappointed, and, if not reappointed, notwithstanding section 2(c) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(c)), the member may serve until the member's successor has been appointed and approved.

(e) When appointing a member of the Campaign Finance Board, the Mayor and Council shall consider whether the individual possesses particular knowledge, training, or experience in campaign finance law or administration.

(f) A person shall not be a member of the Campaign Finance Board unless the person:

(1) Is a duly-registered District voter;

(2) Has resided in the District continuously for the 3-year period preceding the day the person is appointed; and

(3) Holds no other office or employment in the District government.

(g) No person, while a member of the Campaign Finance Board, shall:

(1) Campaign for any public office;

(2) Serve in a leadership capacity or hold any office in a political party or political committee, political action committee, or independent expenditure committee;

(3) Participate in any political campaign in any District election, including by:

(A) Making speeches for or publicly supporting or opposing a District candidate, political party, political committee, political action committee, independent expenditure committee, recall, initiative, or referendum;

(B) Fundraising for or contributing to a District candidate, political party, political committee, political action committee, independent expenditure committee, recall, initiative, or referendum; or

(C) Attending or purchasing a ticket for a dinner or other event sponsored by or supporting or opposing a District candidate, political party, political committee, political action committee, independent expenditure committee, recall, initiative, or referendum;

(4) Be a lobbyist;

(5) Be an officer, director, or employee of an organization receiving District funds who has managerial or discretionary responsibilities with respect to those funds;

(6) Use their status as a member to directly or indirectly attempt to influence any decision of the District government relating to any action that is not within the Board's purview; or

(7) Be convicted of having committed an election- or campaign finance-related felony in the District of Columbia; or if the crime is committed elsewhere, conviction of such offense as would be an election- or campaign finance-related felony in the District of Columbia.

(h) Each member of the Campaign Finance Board, including the Chairperson, shall receive compensation as provided in section 1108(c-1)(11) of the Merit Personnel Act.

(i) A member may be removed for good cause.

(j)(1) The Campaign Finance Board shall hold regular monthly meetings in accordance with a schedule to be established by the Campaign Finance Board. Additional meetings may be called as needed.

(2) The Campaign Finance Board shall provide notice of meetings and shall conduct its meetings in compliance with the Open Meetings Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-571 et seq.).

D.C. Code § 1-1163.02b. Board independent agency; facilities; seal.

(a) In the performance of its duties, or in matters of procurement, the Campaign Finance Board shall not be subject to the direction of any nonjudicial officer of the District, except as provided in the Merit Personnel Act.

(b) The District government shall furnish to the Campaign Finance Board such records, information, services, personnel, offices, equipment, and such other assistance and facilities as may be necessary to enable the Campaign Finance Board to properly to perform its functions.

(c) Subject to the approval of the Mayor, the Campaign Finance Board is authorized to adopt and use a seal.

D.C. Code § 1-1163.03. Powers of Director of Campaign Finance.

(a)(1) The Director of Campaign Finance, under regulations ~~of general applicability~~ approved by the ~~Elections Board~~ Campaign Finance Board, shall have the power:

(A) To require any person to submit in writing reports and answers to questions as the Director of Campaign Finance may prescribe relating to the administration and enforcement of this subchapter; and the submission shall be made within such reasonable period and under oath, affirmation, or otherwise as the Director of Campaign Finance may determine;

(B) To require any person to submit through an electronic format or medium the reports required in this subchapter;

(C) To administer oaths and affirmations;

(D) To require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of the Campaign Finance Board's ~~its~~ duties;

(E) In any proceeding or investigation to order testimony to be taken by deposition before any person who is designated by the Director of Campaign Finance and has the power to administer oaths and affirmations and, in these instances, to compel testimony and the production of evidence in the same manner as authorized under subparagraph (D) of this paragraph;

(F) To pay witnesses the same fees and mileage as are paid in like circumstances in the Superior Court of the District of Columbia; and

~~(G) To accept gifts; and~~

(H) To institute or conduct, on his or her own motion, an informal hearing on alleged violations of the reporting requirements contained in this subchapter. Where the Director of Campaign Finance, in his or her discretion, determines that a violation has occurred, the Director of Campaign Finance may issue an order to the offending party or parties to cease and desist the violations within the 5-day period immediately following the issuance of the order. Should the offending party or parties fail to comply with the order, the Director of Campaign Finance shall present evidence of the failure to the ~~Elections Board~~ Campaign Finance Board. Following the presentation of evidence to the ~~Elections Board~~ Campaign Finance Board by the Director of Campaign Finance, in an adversary proceeding and an open hearing, the ~~Elections Board~~ Campaign Finance Board may refer the matter for prosecution in accordance with the provisions in § 1-1163.02(b~~e~~) may dismiss the action.

(2) Subpoenas issued under this section shall be issued by the Director of Campaign Finance upon the approval of the ~~Elections Board~~ Campaign Finance Board.

(b) The Superior Court of the District of Columbia may, upon petition by the ~~Elections Board~~ Campaign Finance Board, in case of refusal to obey a subpoena or order of the ~~Elections Board~~ Campaign Finance Board issued under subsection (a) of this section, issue an order requiring compliance; and any failure to obey the order of the court may be punished by the court as contempt.

(c)(1) All investigations of alleged violations of this ~~subchapter~~ title shall be made by the Director of Campaign Finance in his or her discretion, in accordance with procedures of general applicability issued by the Director of Campaign Finance in accordance with Chapter 5 of Title 2.

(2) All allegations of violations of this ~~subchapter~~title, which shall be presented to the ~~Elections~~ Campaign Finance Board~~,~~ in writing, shall be transmitted to the Director of Campaign Finance without action by the ~~Elections~~ Campaign Finance Board.

(3) ~~In a reasonable time, the~~ The Director of Campaign Finance shall ~~cause~~ present evidence concerning the alleged violation to ~~be presented to~~ the ~~Elections~~ Campaign Finance Board within a reasonable time, if he or she believes that sufficient evidence exists constituting an apparent violation.

(4) Following the presentation of evidence to the ~~Elections~~ Campaign Finance Board by the Director of Campaign Finance, in an adversary proceeding and an open hearing, the ~~Elections~~ Campaign Finance Board may refer the matter for prosecution in accordance with the provisions of § 1-1163.02(~~e~~b), or may dismiss the action. In no case may the ~~Elections~~ Campaign Finance Board refer information concerning an alleged violation of this ~~subchapter~~ title for prosecution without the presentation of evidence ~~herein provided~~ by the Director of Campaign Finance.

(5) Should the Director of Campaign Finance fail to present a matter or advise the ~~Elections~~ Campaign Finance Board that insufficient evidence exists to present a matter~~,~~ or that an additional period of time is needed to investigate the matter further, ~~within 90 days of its receipt by the Elections Board or the Director of Campaign Finance,~~ the ~~Elections~~ Campaign Finance Board may order the Director of Campaign Finance to present the matter ~~as herein provided~~ within 90 days after its receipt.

D.C. Official Code § 1-1163.04. Duties of the Director of Campaign Finance.

The Director of Campaign Finance shall:

(1) Develop and furnish prescribed forms, materials, and electronic formats or mediums, including electronic or digital signatures, ~~for the making of the reports and statements required to be filed with him or her~~ for persons to make the reports and statements required to be filed with the Director of Campaign Finance pursuant to this subchapter;

(1A) Require that all reports filed with the ~~Elections~~ Campaign Finance Board pursuant to this ~~subchapter~~ title be submitted ~~online~~electronically, provided that reasonable accommodations shall be made where an actual hardship in complying with this paragraph is demonstrated to the ~~Elections Board~~Director of Campaign Finance; ~~The Elections Board shall issue regulations governing the online submission of reports, pursuant to this paragraph;~~

(1B)(A) Publish all information submitted by ~~recipients and agencies~~ pursuant to ~~sections of this subchapter~~ this title online in a publicly accessible, widely accepted, nonproprietary, searchable, platform-independent, sortable, computer-readable format within 24 hours of filing. The database of electronic filings and other data within the portal shall be available via bulk download from the portal website;

(B) For the purposes of searching receipts of contributions and expenditures, "sortable" means able to be downloaded and filtered by street address, city, state, or zip code of the contributor or payee;

(2) Develop a filing, coding, and cross-indexing system ~~consonant~~ consistent with the purposes of this subchapter;

(3) Make the reports and statements filed with him or her available for public inspection and copying, commencing as soon as practicable, but not later than the end of the 2nd day following the day during which it was received, and to permit and facilitate copying of any report or statement ~~by hand and by duplicating machine~~, as requested by any person, at reasonable cost to the person, except any information copied from the reports and statements shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose;

(4) Preserve paper and electronic copies of reports and statements for a period of at least 10 years from date of receipt;

(5) Compile and maintain a current list of all reports and statements ~~or parts of statements~~ on file pertaining to each candidate;

~~(6) Prepare and publish other reports as he or she may consider appropriate;~~

(7) ~~Ensure dissemination of statistics, summaries, and reports prepared under this subchapter, including a biennial report summarizing the receipts and expenditures of candidates in the prior 2-year period and the receipts and expenditures of political committees, political action committees, and independent expenditures during the prior 2-year period. The Director of Campaign Finance shall make available to the Mayor, Council, and general public the first biennial report by January 31, 2013, and shall present the summary report on the same date every 2 years thereafter. The report shall describe the receipts and expenditures of candidates for Mayor, Attorney General, Chairman and members of the Council, President and members of the State Board of Education, shadow Senator, and shadow Representative, but shall exclude candidates for Advisory Neighborhood Commissioner. The report shall provide, at a minimum, the following information, as well as other information that the Director of Campaign Finance considers appropriate:~~

~~(A) A summary of each candidate's receipts, in dollar amount and percentage terms, by donor categories that the Director of Campaign Finance considers appropriate, such as the candidate himself or herself, individuals, political party committees, other political committees, corporations, partnerships, and labor organizations;~~

~~(B) A summary of each candidate's receipts, in dollar amount and percentage terms, by the size of the donation, including donations of $500 or more; donations of $250 or more but less than $500; donations of $100 or more but less than $250; and donations of less than $100;~~

~~(C) The total amount of a candidate's receipts and expenditures for primary and general elections, respectively, when applicable;~~

~~(D) A summary of each candidate's expenditures, in dollar amount and percentage terms, by operating expenditures, transfers to other authorized committees, loan repayments, and refunds of contributions; and~~

~~(E) A summary of the receipts and expenditures of political committees and political action committees using categories considered appropriate by the Director of Campaign Finance;~~

(7)(A) Make any reports prepared under this title available online, including a biennial report summarizing the receipts and expenditures of candidates, political committees, political action committees, and independent expenditure committees, during the prior 2-year period.

(B) The Director of Campaign Finance shall publish the biennial report required in subparagraph (A) of this paragraph by December 31 of each odd-numbered year. The report shall describe the receipts and expenditures of candidates for Mayor, Attorney General, Chairman and members of the Council, members of the State Board of Education, shadow Senator, and shadow Representative, but shall exclude candidates for Advisory Neighborhood Commissioner. The report shall provide, at a minimum, the following information:

(i) A summary of each candidate's receipts, in dollar amount and percentage terms, by categories of contributors that the Director of Campaign Finance considers appropriate, such as the candidate himself or herself, individuals, political committees, corporations, partnerships, and labor organizations;

(ii) A summary of each candidate's receipts, in dollar amount and percentage terms, by the size of the contribution, including contributions of $500 or more; contributions of $250 or more but less than $500; contributions of $100 or more but less than $250; and contributions of less than $100;

(iii) The total amount of a candidate's receipts and expenditures for primary and general elections, respectively, when applicable;

(iv) A summary of each candidate's expenditures, in dollar amount and percentage terms, by operating expenditures, transfers to other authorized committees, loan repayments, and refunds of contributions; and

(v) A summary of the receipts and expenditures of political committees, political action committees, and independent expenditure committees using categories considered appropriate by the Director of Campaign Finance;

(7A) Require a candidate for public office and the treasurer of any political committee, political action committee, or independent expenditure committee to attend a training program conducted by the Director of Campaign Finance concerning compliance with this subchapter. Such training shall:

(A) Be conducted in person, although online materials may be used to supplement the training;

(A-i) Include content on the Fair Elections Program and the requirements of this title pertaining to business contributors, their affiliated entities, and covered contractors;

(B) Be completed in accordance with a schedule to be published by the Director of Campaign Finance, or by individual request as the Director of Campaign Finance deems appropriate; and

(C) Upon completion, result in the completion of an oath or affirmation to follow the District's campaign finance laws, to be developed by the Director of Campaign Finance. The names of the participants and those participants who have not completed the training shall be ~~posted~~ displayed on the website of the ~~Office of~~ Campaign Finance Board;

(8) Make audits and field investigations with respect to reports and statements filed under this subchapter, and with respect to alleged failures to file any report or statement required under the provisions of this subchapter; and

(8A) Not Funded.

(9) Perform such other duties as the ~~Elections Board~~ Campaign Finance Board may require.

D.C. Code § 1-1163.06. Advisory opinions.

~~(a) Upon application made by any individual holding public office, any candidate, any person required to submit filings to the Elections Board under this subchapter, any person who reasonably anticipates being required to submit filings to the Elections Board under this subchapter in connection with a pending election or any subsequent election, or any political committee, political action committee, or other person under the jurisdiction of the Elections Board, the Elections Board shall provide within a reasonable period of time an advisory opinion, with respect to any specific transaction or activity inquired of, as to whether such transaction or activity would constitute a violation of any provision of this subchapter or of any provision of subchapter I of Chapter 10 of this title [§ 1-1001.01 et seq.] over which the Elections Board has primary jurisdiction. The Elections Board shall publish a concise statement of each request for an advisory opinion, without identifying the person seeking the opinion, in the District of Columbia Register within 20 days of its receipt by the Elections Board. Comments upon the requested opinions shall be received by the Elections Board for a period of at least 15 days following publication in the District of Columbia Register. The Elections Board may waive the advance notice and public comment provisions, following a finding that the issuance of the advisory opinion constitutes an emergency necessary for the immediate preservation of the public peace, health, safety, welfare, or morals.~~

(a)(1) On its own initiative, or upon receiving a request from a person listed below and within a reasonable time after its receipt, the Campaign Finance Board shall provide an advisory opinion regarding compliance with this act:

(A) A public official;

(B) A political committee, political action committee, or independent expenditure committee;

(C) An official of a political party;

(D) Any person required to or who reasonably anticipates being required to submit filings to the Campaign Finance Board under this title; or

(E) Any other person under the jurisdiction of the Campaign Finance Board.

(2) The Campaign Finance Board shall publish a concise statement of each request for an advisory opinion, without identifying the person seeking the opinion, in the District of

Columbia Register within 20 days after its receipt. Comments upon the requested opinion shall be received by the Campaign Finance Board for a period of at least 15 days following publication. The Campaign Finance Board may waive the advance notice and public comment provisions, following a finding that the issuance of the advisory opinion constitutes an emergency necessary for the immediate preservation of the public peace, health, safety, welfare, or trust.

(b) Advisory opinions shall be published in the District of Columbia Register within 30 days of their issuance; provided, that the identity of any person requesting an advisory opinion shall not be disclosed in the District of Columbia Register without his or her prior consent in writing. When issued according to rules of the ~~Elections Board~~ Campaign Finance Board, an advisory opinion shall be deemed to be an order of the ~~Elections Board~~ Campaign Finance Board.

(c) There shall be a rebuttable presumption that a transaction or activity undertaken by a person in reliance on an advisory opinion from the ~~Elections Board~~ Campaign Finance Board is lawful if:

(1) The person requested the advisory opinion;

(2) The facts on which the opinion is based are full and accurate, to the best knowledge of the person; and

(3) The person, in good faith, substantially complies with any recommendations in the opinion.

D.C. Code § 1-1163.07. Organization of committees.

Political committees, political action committees, and independent expenditure committees shall be subject to the following requirements:

(1) Each committee shall file with the Director of Campaign Finance a statement of organization within 10 days after its organization. The statement of organization shall include:

(A) The name and address of the committee;

(B) The name, address, and ~~position of the custodian of books and accounts~~ employer of the treasurer;

(C) The name, address, and position of other principal officers, including officers and members of the finance committee, if any;

(C-i) The name, address, and position of all directors and officers;

(D) The name and address of the bank or banks designated by the committee as the committee's depository or depositories, together with the subchapter and number of each account and safety deposit box used by that committee at the depository or depositories, and the identification of each individual authorized to make withdrawals or payments out of each account or box; and

(E) Other information as shall be required by the Director of Campaign Finance.

(2) Any change in information previously submitted in a statement of organization shall be reported to the Director of Campaign Finance within the 10-day period following the change.

(3) Any committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year shall so notify the Director of Campaign Finance.

(4) Every committee shall have a ~~chairman~~ chairperson and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a committee at a time when there is a vacancy in the office of treasurer for the committee and no other person has been designated and has agreed to perform the functions of treasurer. No expenditure shall be made for or on behalf

of a committee without the authorization of its ~~chairman~~ chairperson or treasurer, or their designated agents.

(5)(A) For every contribution and expenditure of $50 or more for or on behalf of a committee, a detailed account shall be submitted to the treasurer of a committee on demand, or within 5 days after receipt of the contribution or expenditure, of the amount, the name and address (including the ~~occupation and the principal~~ occupation, employer, and the principal place of business, if any) of the contributor or the individual to whom the expenditure ~~was made~~ was made, if applicable, and the date of the contribution or expenditure. For an expenditure, the account should also include the office sought by the candidate on whose behalf the expenditure was made.

(B) The treasurer or candidate shall obtain and preserve receipted bills and records as may be required by the ~~Elections Board~~ Campaign Finance Board.

(6) All funds of a committee shall be segregated from, and may not be commingled with, any personal funds of officers, directors, members, or associates of the committee.

D.C. Code § 1-1163.08. Designation of campaign depositories; petty cash fund.

(a) Each committee and each candidate accepting contributions or making expenditures, shall designate in the registration statement required under § 1-1163.07 or § 1-1163.12, one or more national banks located in the District of Columbia as the depository or depositories of that committee or candidate. Each committee or candidate shall maintain a checking account or accounts at such depository or depositories and shall deposit any contributions received by the committee or candidate into that account or accounts. No expenditures may be made by a committee or candidate except by check drawn payable to the person to whom the expenditure is being made on that account or accounts, other than petty cash expenditures as provided in subsection (b) of this section.

(b) A committee or candidate may maintain a petty cash fund out of which may be made expenditures not in excess of $50 to any person in connection with a single purchase or transaction. A record of petty cash receipts and disbursements shall be kept in accordance with requirements established by the ~~Elections Board~~ Campaign Finance Board, and statements and reports of expenditures shall be furnished to the Director of Campaign Finance as it may require.

D.C. Code § 1-1163.09. Reporting.

(a) The following individuals shall file with the Director of Campaign Finance, and with the principal campaign committee, if applicable, reports of receipts and expenditures on forms to be prescribed or approved by the Director of Campaign Finance:

(1) The treasurer of each political committee;

(2) The treasurer of each political action committee; and

(3) The treasurer of each independent expenditure committee.

~~(b) The reports required by subsection (a) of this section shall be filed on the 10th day of March, June, August, October, and December in the 7 months preceding the date on which, and in each year during which, an election is held for the office sought, and 8 days before a special or general election, and also by the 31st day of January of each year. In addition, the reports shall be filed on the 31st day of July of each year in which there is no election. The reports shall be complete as of the date prescribed by the Director of Campaign Finance, which shall not be more than 5 days before the date of filing, except that any contribution of $200 or more received after the~~

~~closing date prescribed by the Director of Campaign Finance for the last report required to be filed before the election shall be reported within 24 hours after its receipt.~~

(b)(1) The reports required by subsection (a) of this section shall be filed according to the following schedule:

(A) For political committees:

(i) In an election year for the office sought, by the 10th day of February, April, July, September, and December, and 8 days before the primary, general, or special election, as applicable to the candidate;

(ii) In a non-election year for the office sought, by the 10th day of February, July, September, and December; and

(B) For political action committees and independent expenditure committees, by the 10th day of February, April, July, September, and December, and 8 days before a primary, general, or special election.

(2) The reports shall be complete as of the closing date prescribed by the Director of Campaign Finance, which shall not be more than 10 days before the date of filing, except that any contribution of $200 or more received after the closing date prescribed by the Director of Campaign Finance for the last report required to be filed before the election shall be reported within 24 hours after its receipt.

(b-1) Not Funded.

(c) Each report under this section shall disclose:

(1) The amount of cash on hand at the beginning of the reporting period;

(2) The full name and mailing address, including the occupation, employer, and the principal place of business, if any, of each person who has made one or more contributions to or for a committee or candidate, including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events, within the calendar year in an aggregate amount or value in excess of $50 or more, together with the amount and date of the contributions;

(2A) For each contribution by a business contributor, any information provided by that business contributor in accordance with § 1-1163.13(b);

(2B) For a report filed by a political action committee that has established a non-contribution account, any receipts that have been allocated to that account;

(3) The total sum of individual contributions made to or for a committee or candidate during the reporting period and not reported under paragraph (2) of this subsection;

(4) Each loan to or from any person within the calendar year in an aggregate amount or values of $50 or more, together with the full names and mailing addresses (including occupation, employer, and the principal place of business, if any) of the lender and endorsers, if any, and the date and amount of the loans; and

(5) The net amount of proceeds from:

(A) The sale of tickets to each dinner, luncheon, rally, and other fundraising events organized by a committee;

(B) Mass collections made at the events; and

(C) Sales by a committee of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;

(6) Each contribution, rebate, refund, or other receipt of $50 or more not otherwise listed under paragraphs (2) through (5) of this subsection;

(7) The total sum of all receipts by or for a committee or candidate during the reporting period;

(8) The full name and mailing address (including the ~~the occupation~~ the occupation, employer, and the principal place of business, if any) of each person to whom expenditures have been made by a committee or on behalf of a committee or candidate within the calendar year in an aggregate amount or value of $10 or more, the amount, date, and purpose of each expenditure, and the name and address of, and office sought by, each candidate on whose behalf the expenditure was made;

(9) The total sum of expenditures made by a committee or candidate during the calendar year;

(10) The amount and nature of debts and obligations owed by or to the committee, in a form as the Director of Campaign Finance may prescribe, and a continuous reporting of its debts and obligations after the election when the Director of Campaign Finance may require until the debts and obligations are extinguished; and

(11) Other information as may be required by the Director of Campaign Finance.

(d) The reports to be filed under subsection (a) of this section shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during the year, only the unchanged amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the committee or candidate shall file a statement to that effect.

(e)(1) A report or statement required by this part shall be verified by the oath or affirmation of the person filing the report or statement.

(2) The oath or affirmation required under this subsection shall be given under penalty of perjury and shall state that the filer has used all reasonable diligence in the preparation of the report or statement and the report or statement is true and complete to the best of the filer's knowledge.

(3) An oath or affirmation by a candidate shall also state that the candidate has used all reasonable diligence to ensure that:

(A) The candidate and the candidate's political committees are in compliance with this part; and

(B) The candidate's political committees have advised their contributors of the obligations imposed on those contributors by this subchapter.

(4) ~~The Elections Board~~ The Campaign Finance Board shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. The regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in the regulations shall not be considered until actual payment is made.

(f) Each political committee ~~(including principal campaign, inaugural, transition, and exploratory committees)~~, political action committee, and independent expenditure committee shall, in a separate schedule of its report to be filed under subsection (a) of this section, disclose the:

(1) Name, address, ~~and~~ employer, and occupation of each person reasonably known by the committee to have bundled in excess of $~~10~~5,000 during the reporting period; and

(2) For each person, the total of the bundling.

D.C. Code § 1-1163.10. Principal campaign committee.

(a) Each candidate ~~for office~~ shall designate in writing one political committee as his or her principal campaign committee. The principal campaign committee shall receive all reports made by any other political committee accepting contributions or making expenditures for the purpose of influencing the ~~nomination for election, or~~ election~~,~~ of the candidate who designated it as his or her principal campaign committee. The principal campaign committee may require additional reports to be made to it by any political committee and may designate the time and number of all reports. No political committee may be designated as the principal campaign committee of more than one candidate, except a principal campaign committee supporting the ~~nomination or~~ election of a candidate as an official of a political party may support ~~the nomination or~~ election of more than one candidate~~,~~ but may not support the ~~nomination or~~ election of a candidate for any public office.

(b) Each statement (including the statement of organization required under § 1-1163.07) or report that a political committee is required to file with or furnish to the Director of Campaign Finance under the provisions of this part shall also be furnished, if that political committee is not a principal campaign committee, to the principal campaign committee for the candidate on whose behalf that political committee is accepting or making, or intends to accept or make, contributions or expenditures.

(c) The treasurer of each political committee which is a principal campaign committee, and each candidate, shall receive all reports and statements filed with or furnished to it or him or her by other political committees, consolidate, and furnish the reports and statements to the Director of Campaign Finance, together with the reports and statements of the principal campaign committee of which he or she is treasurer or which was designated by him or her, in accordance with the provisions of this part and regulations prescribed by the ~~Elections Board~~ Campaign Finance Board.

D.C. Code § 1-1163.10a. Fund balance requirements of principal campaign committees.

(a) Except as provided in section 332h, within the limitations specified in this ~~chapter~~ act, any surplus, residual, or unexpended campaign funds received by or on behalf of ~~an individual who seeks nomination for election, or election to office,~~ a candidate shall be:

(1) Contributed to a political party for political purposes;

(2) Within 6 months after the election, ~~U~~used to retire the proper debts of his or her political committee that received the funds, after which the candidate shall be personally liable for any remaining debts; provided, that any loans made by a candidate to support his or her campaign may only be repaid up to the amount of $25,000;

(3) Transferred to:

(A) a~~A~~ political committee~~;~~;

(B) ~~a charitable organization in accordance with § 47-1803.03(a)(8),~~ A nonprofit organization within the meaning of section 501(c) of the Internal Revenue Code, operating in good standing in the District for a minimum of one calendar year before the date of any transfer;

(C) o~~O~~r, in the case of ~~an elected official~~ the Mayor or a Councilmember, an established constituent-services ~~fund~~program; or

(4) Returned to the donors as follows:

(A) In the case of an individual defeated in an election, within 6 months ~~following~~ after the election;

(B) In the case of an individual elected to office, within 6 months ~~following~~ after the election; and

(C) In the case of an individual ceasing to be a candidate, within 6 months thereafter.

(b) No public official elected to office shall fundraise after 6 months after the election to retire the proper debts of the public official's political committee, for which the public official is now personally liable.

D.C. Code § 1-1163.11. Specific requirements for statements of organization ~~filed by political committees~~.

In addition to the statement of organization set forth in § 1-1163.07, each political committee, political action committee, and independent expenditure committee shall also file the following information with the Director of Campaign Finance within 10 days after the political committee's organization:

(1) The names, addresses, and relationships of affiliated ~~or connected~~ organizations;

(2) The area, scope, or jurisdiction of the political committee;

(3) The name, address, office sought, and party affiliation of:

(A) ~~Each~~ Any candidate whom the committee is supporting; and

(B) Any other individual, if any, whom the committee is supporting for ~~nomination for election or~~ election, to any public office whatever; or, if the committee is supporting the entire ticket of any party, the name of the party; or, if the committee is supporting or opposing any initiative or referendum, the summary statement and short title of the initiative or referendum, prepared in accordance with § 1-1001.16; or, if the committee is supporting or opposing any recall measure, the name and office of the public official whose recall is sought or opposed in accordance with § 1-1001.17;

(4) A statement whether the political committee, political action committee, or independent expenditure committee is a continuing one; and

(5) The plan for the disposition of residual funds which will be made in the event of dissolution.

D.C. Code § 1-1163.12. Registration statement of candidate; depository information.

(a) Each individual shall, within 5 days ~~of~~ becoming a candidate, file with the Director of Campaign Finance a registration statement in a form prescribed by the Director of Campaign Finance.

(b) In addition, candidates shall provide the Director of Campaign Finance the name and address of the campaign depository or depositories designated by that candidate, together with the title and number of each account and safety deposit box used by that candidate at the depository or depositories, and the identification of each individual authorized to make withdrawals or payments out of the account or box, and other information as shall be required by the Director of Campaign Finance.

D.C. Code § 1-1163.12a. Non-contribution accounts.

(a) A political action committee shall not make an independent expenditure unless it establishes a non-contribution account for the purpose of making such independent expenditures.

(b) A political action committee must notify the Campaign Finance Board within ten days after establishing a non-contribution account.

(c) A political action committee that establishes a non-contribution account shall ensure that:

(1) The non-contribution account remains segregated from any accounts of the political action committee that are used to make contributions to candidates, political committees, political action committees, or political parties;

(2) No contribution to the political action committee is deposited in the non-contribution account unless the contributor has specifically designated the contribution for the purpose of making an independent expenditure;

(3) Contributions by the political action committee are not made from the non-contribution account;

(4) The non-contribution account pays a proportional share, as determined by the Director of Campaign Finance, of the political action committee's administrative expenses.

(d) If a political action committee has established a non-contribution account, it must, in any reports it files pursuant to section 309, identify any receipts that have been allocated to that account.

D.C. Code § 1-1163.13. Additional identifications and certifications.

(a)(1) Every political action committee and ~~every~~ independent expenditure committee shall certify, in each report filed with the Director of Campaign Finance, that the contributions it has received and the expenditures it has made have not been controlled by or coordinated with ~~or directed by~~ any public official ~~or candidate~~, ~~by any~~ political committee affiliated with a public official, or ~~by any political party~~ an agent of a public official or political committee affiliated with a public official.

(2) Every independent expenditure committee shall further certify, in each report filed with the Director of Campaign Finance, that it has not made ~~no~~ any contributions or transfers of funds to any public official ~~or candidate~~, ~~any~~ political committee, or any political action committee.

(b)(1) A business contributor to a political committee, political action committee, or independent expenditure committee shall provide the committee with the identities of the contributor's affiliated entities that have also contributed to the committee.

(2) A business contributor shall comply with all requests from the ~~Office of~~ Campaign Finance Board to provide information about its individual owners, the identity of affiliated entities, the individual owners of affiliated entities, the contributions or expenditures made by such entities, and any other information the Director of Campaign Finance deems ~~deemed~~ relevant to enforcing the provisions of this chapter.

~~(3) Any person other than a political committee, political action committee, or independent expenditure committee that makes one or more independent expenditures in an aggregate amount of $50 or more within a calendar year, other than by contribution to a committee or candidate, shall, in a report filed with the Director of Campaign Finance, identify the name and~~

~~address of the person, identify the person's affiliated entities that have also made an independent expenditure, the amount and object of the expenditures, and the names of any candidates, initiatives, referenda, or recalls in support of or opposition to which the expenditures are directed. The report shall be filed on the dates which reports by committees are filed, unless the value of the independent expenditure totals $1000 or more in a 2-week period, in which case the report shall be filed within 14 days of the independent expenditure.~~

(3)(A) Any person other than a political committee, political action committee, or independent expenditure committee that makes one or more independent expenditures in an aggregate amount of $50 or more within a calendar year shall, in a report filed with the Director of Campaign Finance, identify:

(i) The name and address of the person;

(ii) The name and address of any of the person's affiliated entities that have also made an independent expenditure;

(iii) The amount and purpose of the expenditures;

(iv) The names of any candidates, initiatives, referenda, or recalls in support of or in opposition to which the expenditures are directed; and

(v) A certification that, to the best of the person's knowledge, the independent expenditures were not controlled by or coordinated with any public official, political committee affiliated with a public official, or an agent of any person described in this sub-subparagraph.

(B) If the person under subparagraph (A) of this paragraph is not an individual, any report filed under this paragraph shall also include:

(i) The person's principal place of business;

(ii) The name and address of each person whose total contributions to the person reporting during the period covered by the report exceeded $200; and

(iii) The date and amount of each contribution by each person whose total contributions to the person reporting during the period covered by the report exceeded $200.

(C) The report shall be filed on the dates which reports by committees are filed, unless the value of the independent expenditure totals $1,000 or more in a 2-week period, in which case the report shall be filed within 14 days after the independent expenditure.

(c) Statements required by this section shall be filed on the dates on which reports by committees are filed, but the content of the filings need not be cumulative.

(d) Every person who files statements with the Director of Campaign Finance has a continuing obligation to provide the Director with correct and up-to-date information.

D.C. Code § 1-1163.15. Identification of campaign literature.

~~(a) All newspaper or magazine advertising, posters, circulars, billboards, handbills, bumper stickers, sample ballots, initiative, referendum, or recall petitions, and other printed matter with reference to or intended for the support or defeat of a candidate or group of candidates for nomination or election to any public office, or for the support or defeat of any initiative, referendum, or recall measure, shall be identified by the words "paid for by" followed by the name and address of the payer or the committee or other person and its treasurer on whose behalf the material appears.~~

~~(b) Each committee and candidate shall include on the face or front page of all literature and advertisement soliciting funds the following notice:~~

~~"A copy of our report is filed with the Director of Campaign Finance of the District of Columbia Board of Elections.".~~

~~(c) Any advertisement supporting or opposing a candidate, initiative, referendum, or recall that is disseminated to the public by a political committee, political action committee, or independent expenditure committee or any other person shall disclose, in the advertisement, the identity of the advertisement's sponsor.~~

(a)(1) A candidate, political committee, or political action committee shall identify its political advertising by the words "paid for by", followed by the name and address of the candidate or committee and the name of the committee's treasurer, as applicable.

(2) An independent expenditure committee or person making an independent expenditure shall identify its political advertising by the words "paid for by", followed by the name and address of the independent expenditure committee and the name of the committee's treasurer, or the name and address of the person making the independent expenditure. The political advertising shall also include a written or oral statement of the words "Top Five Contributors", followed by a list of the five largest contributors to the independent expenditure committee or person making the independent expenditure, if applicable, during the 12-month period before the date of the political advertising.

(b) A political committee, political action committee, independent expenditure committee, or person making an independent expenditure shall include a statement on the face or front page, if printed, or an oral statement, if audiovisual, of all political advertising soliciting contributions the following notice: "A copy of our report is filed with the Director of Campaign Finance of the Campaign Finance Board.

(c) The identifications required by this section need not be included on items the size of which makes the inclusion of such identifications impractical.

(d) For the purposes of this section, the term "political advertising" includes newspaper and magazine advertising; posters; circulars and mailers; billboards; handbills; bumper stickers; sample ballots; initiative, referendum, or recall petitions; radio or television advertisements; paid telephone calls and text messaging; digital media advertisements; and other printed and digital materials produced by the persons in this subsection and intended to support or oppose:

(1) A candidate or group of candidates; or

(2) Any initiative, referendum, or recall measure.

D.C. Code § 1-1163.16. ~~Candidate's liability for financial obligation incurred by a committee.~~ Liability of candidates for financial obligations incurred by committees; imputing actions of agents of candidates.

(a) Except as provided in sections 310a(2), 324(a), and 327(a)(1), ~~N~~no provision of this part shall be construed as creating liability on the part of any candidate for any financial obligation incurred by a committee.

(B) For the purposes of this ~~part, and subchapter I of Chapter 10 of this title [§ 1-1001.01 et seq.],~~ subtitle, actions of an agent acting for a candidate shall be imputed to the candidate; provided, that the actions of the agent may not be imputed to the candidate in the presence of a provision of law requiring a willful and knowing violation of this part ~~or subchapter I of Chapter 10 of this title [§ 1-1001.01 *et seq.*]~~, unless the agency relationship to engage in the act is shown by clear and convincing evidence.

D.C. Code § 1-1163.17. Specific requirements for reports of receipts and expenditures by political committees.

(a) Each report submitted to the Director of Campaign Finance pursuant to the requirements set forth in § 1-1163.09 shall also disclose the name and address of each political committee or candidate from which the reporting committee or the candidate received, or to which that committee or candidate made, any transfer of funds, together with the amounts and dates of all transfers.

(b) In the case of reports filed by a political committee or political action committee on behalf of initiative, referendum, or recall measures under this section, as applicable, the reports shall be filed on the dates ~~as~~ that the ~~Elections~~ Campaign Finance Board may by rule prescribe~~, but in no event shall more than 4 separate reports be required during the consideration of a particular initiative, referendum, or recall measure by any political committee or committees collecting signatures, or supporting or opposing the measures~~.

D.C. Code § 1-1163.18. Fund balance requirements of exploratory committees.

(a) Any balance in the exploratory committee fund shall be transferred only to an established ~~principal campaign committee,~~ political committee~~,~~ or ~~charitable~~ nonprofit organization ~~in accordance with § 47-1803.03(a)(8).~~, within the meaning of section 501(c) of the Internal Revenue Code, operating in good standing in the District for a minimum of one calendar year before the date of any transfer.

(b) Exploratory committee fund balances shall not be deemed the personal funds of any individual, including the individual seeking ~~elective~~ public office.

D.C. Code § 1-1163.19. Aggregate and individual contribution limits of exploratory committees.

(a) Exploratory committees shall not receive aggregate contributions in excess of:

(1) $200,000 for a Mayoral exploratory committee;

(1A) $150,000 for an Attorney General exploratory committee;

(2) $150,000 for a Chairman of the Council exploratory committee;

(3) $100,000 for an at-large member of the Council exploratory committee;

(4) $50,000 for a Ward Councilmember or ~~President~~ at-large member of the State Board of Education exploratory committee; and

(5) $20,000 for a ward member of the State Board of Education exploratory committee.

(b) No person, including a business contributor, may make contributions in excess of:

(1) $2,000 for a Mayoral exploratory committee;

(1A) $1,500 for an Attorney General exploratory committee;

(2) $1,500 for a Chairman of the Council exploratory committee;

(3) $1,000 for an at-large member of the Council exploratory committee;

(4) $500 for a Ward Councilmember or ~~President~~ at-large member of the State Board of Education exploratory committee; and

(5) $200 for a ward member of the State Board of Education exploratory committee.

D.C. Code § 1-1163.21. Duration of an exploratory committee.

The duration of an exploratory committee shall not exceed 18 months for any one office. Once ~~a candidate's~~ an individual's exploratory committee reaches the maximum duration of 18 months, the candidate shall file a declaration of candidacy and form a principal political campaign committee or terminate the exploratory committee.

D.C. Code § 1-1163.22. Contributions to inaugural committees.

No person, including a business contributor, may make any contribution to or for an inaugural committee, and the Mayor or Mayor-elect shall not receive any contribution to or for an inaugural committee from any person, that when aggregated with all other contributions to or for the inaugural committee received from such person, exceeds ~~$10,000~~ $2,000 in an aggregate amount; provided, that the ~~$10,000~~ $2,000 limitation shall not apply to contributions made by the Mayor or Mayor-elect for the purpose of funding his or her own inaugural committee within the District.

D.C. Code § 1-1163.24. Duration of an inaugural committee.

(a)(1) An inaugural committee shall terminate no later than ~~45 days from~~ 6 months after the beginning of the term of the new Mayor ~~or Chairman~~.

(2) ~~, except that the~~ An inaugural committee may ~~continue to~~ accept contributions necessary to retire the debts of the committee.

(2) An inaugural committee may accept contributions necessary to retire the debts of the committee for 6 months after the beginning of the term of the new Mayor, after which the Mayor shall be personally liable for any remaining debts.

(b) The Mayor shall not fundraise to retire the proper debts of his or her inaugural committee, for which he or she is now personally liable, after 6 months after the beginning of his or her term.

D.C. Code § 1-1163.26. Contributions to transition committees.

(a) No person, including a business contributor, may make any contribution to or for a transition committee, and the Mayor or Mayor-elect may not receive any contribution to or for a transition committee from any person, that when aggregated with all other contributions to or for the transition committee received from the person, exceed $2,000 in an aggregate amount; provided, that the $2,000 limitation shall not apply to contributions made by the Mayor or Mayor-elect for the purpose of funding his or her own transition committee within the District.

(b) No person, including a business contributor, may make any contribution to or for a transition committee, and the Chairman of the Council or Chairman-elect, or Attorney General or Attorney General-elect, may not receive any contribution to or for a transition committee from any person, that when aggregated with all other contributions to the transition committee received from the person, exceeds ~~$1,000~~ $1,500 in an aggregate amount; provided, that the ~~$1,000~~ $1,500 limitation shall not apply to contributions made by the Chairman of the Council or Chairman-elect, or Attorney General or Attorney General-elect, for the purpose of funding his or her own transition committee within the District.

D.C. Code § 1-1163.27. Duration of a transition committee; restriction on formation.

~~(a) A transition committee shall terminate no later than 45 days from the beginning of the term of the new Mayor or Chairman, except that the transition committee may continue to accept contributions necessary to retire the debts of the committee.~~

~~(b) Notwithstanding this part, no transition committee may be organized if an appropriation pursuant to § 1-204.46 has been approved.~~

(a)(1) A transition committee shall terminate no later than 6 months after the beginning of the term of the new Mayor, Chairman of the Council, or Attorney General.

(2) A transition committee may continue to accept contributions necessary to retire the debts of the committee for 6 months after the beginning of the new term, after which the Mayor, Chairman of the Council, or Attorney General shall be personally liable for any remaining debts of their respective committees.

(b) The Mayor, Chairman, or Attorney General shall not fundraise to retire the proper debts of his or her respective transition committees, for which he or she is now personally liable, after 6 months after the beginning of his or her new term.

D.C. Code § 1-1163.28. Legal defense committees – organization.

(a)(1) One legal defense committee and one legal defense checking account shall be established and maintained for the purpose of soliciting, accepting, and spending legal defense funds, which funds may be spent to defray attorney's fees and other related costs for a public official's legal defense to one or more civil, criminal, or administrative proceedings arising directly out of the conduct of a campaign, the election process, or the performance of the public official's governmental activities and duties. No committee, fund, entity, or trust may be established to defray professional fees and costs except pursuant to this section.

(2) Attorney's fees and other related legal costs shall not include, for example, expenses for fundraising, media or political consulting fees, mass mailing or other advertising, or a payment or reimbursement for a fine, penalty, judgment or settlement, or a payment to return or disgorge contributions made to any other committee controlled by the candidate or officer.

(b) Each legal defense committee shall file with the Director of Campaign Finance a statement of organization within 10 days after its organization, which shall include:

(1) The name and address of the legal defense committee;

(2) The name, address, and position of the custodian of books and accounts;

(3) The name, address, and position of other ~~principal~~ officers;

(4) The beneficiary of the legal defense committee and checking account;

(5) The name and address of the bank designated by the committee as the legal defense committee depository, together with the title and number of the checking account and safety deposit box used by that committee at the depository, and the identification of each individual authorized to make withdrawals or payments out of each such account or box; and

(6) Other information as shall be required by the Director of Campaign Finance.

(c) Any change in information previously submitted in a statement of organization shall be reported to the Director of Campaign Finance within the 10-day period following the change.

(d) Any legal defense committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year shall so notify the Director of Campaign Finance.

(e) Any balance in the legal defense committee fund shall be transferred only to a nonprofit organization, within the meaning of section 501(c) of the Internal Revenue Code, operating in good standing in the District of Columbia for a minimum of one calendar year before the date of any transfer, or to a constituent-service program pursuant to § 1-1163.38.

D.C. Code § 1-1163.29. Legal defense committees – contributions and expenditures.

(a) Each legal defense committee shall have a ~~chairman~~ chairperson and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a legal defense committee at a time when there is a vacancy in the office of treasurer for the committee and no other person has been designated and has agreed to perform the functions of treasurer. No expenditure shall be made for or on behalf of a legal defense committee without the authorization of its ~~chairman~~ chairperson or treasurer, or their designated agents.

(b) Every person who receives a contribution of $50 or more for or on behalf of a legal defense committee shall, on demand of the treasurer, and in any event within 5 days after receipt of the contribution, submit to the treasurer of the committee a detailed account thereof, including the amount, the name and address (including the occupation, employer, and the principal place of business, if any) of the person making the contribution, and the date on which the contribution was received. All funds of a legal defense committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

(c) The treasurer of a legal defense committee, and each beneficiary, shall keep a detailed and exact account of:

(1) All contributions made to or for the legal defense committee;

(2) The full name and mailing address (including the occupation, employer, and the principal place of business, if any) of every person making a contribution of $50 or more, and the date and amount of the contribution;

(3) All expenditures made by or on behalf of the legal defense committee; and

(4) The full name and mailing address (including the occupation, employer, and the principal place of business, if any) of every person to whom any expenditure is made, the date and amount thereof, and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made.

(d) The treasurer or beneficiary shall obtain and preserve such receipted bills and records as may be required by the ~~Elections Board~~ Campaign Finance Board.

(e)(1) No person shall make any contribution to or for a legal defense committee which, when aggregated with all other contributions to or for the legal defense committee received from the person, exceeds ~~$10,000~~ $2,000 in an aggregate amount; provided, that the ~~$10,000~~ $2,000 limitation shall not apply to contributions made by a public official for the purpose of funding his or her own legal defense committee within the District of Columbia.

(2) No contributions to a legal defense committee shall be made by a lobbyist or registrant or by ~~a person acting on behalf~~ an agent of the lobbyist or registrant.

(3) A legal defense committee shall not accept a contribution from a lobbyist or registrant or by ~~a person acting on behalf~~ an agent of the lobbyist or registrant.

D.C. Code § 1-1163.30. Designation of legal defense depositories.

Each legal defense committee accepting contributions or making expenditures shall designate in the ~~registration~~ statement of organization required under § 1-1163.28, one or more banks located in the District of Columbia as the legal defense depository or depositories of that legal defense committee. Each committee shall maintain a checking account or accounts at the depository or depositories and shall deposit any contributions received by the committee into that account or accounts. No expenditures may be made by a committee except by check drawn payable to the person to whom the expenditure is being made on that account.

D.C. Code § 1-1163.31. Reports of receipts and expenditures by legal defense committees.

(a) The treasurer of each legal defense committee shall file with the Director of Campaign Finance, and with the applicable principal campaign committee, reports of receipts and expenditures on forms to be prescribed or approved by the Director of Campaign Finance. The reports shall be filed within 30 days after the committee's organization and every 30 days thereafter in each year. The reports shall be complete as of a date as prescribed by the Director of Campaign Finance, which shall not be more than 5 days before the date of filing, except that any contribution of $200 or more received after the closing date prescribed by the Director of Campaign Finance for the last report required to be filed before the election shall be reported within 24 hours after its receipt.

(b) Each report under this section shall disclose:

(1) The amount of cash on hand at the beginning of the reporting period;

(2) The full name and mailing address (including the occupation, employer, and the principal place of business, if any) of each person who has made one or more contributions to or for a committee within the calendar year in an aggregate amount or value in excess of $50 or more, together with the amount and date of the contributions;

(3) The total sum of individual contributions made to or for a committee or candidate during the reporting period and not reported under paragraph (2) of this subsection;

(4) Each loan to or from any person within the calendar year in an aggregate amount or values of $50 or more, together with the full names and mailing addresses (including the occupation, employer, and the principal place of business, if any) of the lender and endorsers, if any, and the date and amount of the loans;

(5) The total sum of all receipts by or for a committee during the reporting period;

(6) The full name and mailing address (including the occupation, employer, and the principal place of business, if any) of each person to whom expenditures have been made by a committee or on behalf of a committee within the calendar year in an aggregate amount or value of $10 or more;

(7) The total sum of expenditures made by a committee during the calendar year;

(8) The amount and nature of debts and obligations owed by or to the committee, in a form as prescribed by the Director of Campaign Finance; and

(9) Other information as may be required by the Director of Campaign Finance.

(c) The reports to be filed under subsection (a) of this section shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the unchanged amount need be carried forward. If no

contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the legal defense committee shall file a statement to that effect.

D.C. Code § 1-1163.32. Formal requirements for reports and statements.

(a) A report or statement required by this part to be filed by a treasurer of a legal defense committee shall be verified by the oath or affirmation of the person filing the report or statement and by the individual to be benefitted by the committee.

(b) A copy of a report or statement shall be preserved by the person filing and by the individual to be benefitted by the committee for a period to be designated by the ~~Elections Board in a published~~ Campaign Finance Board by regulation.

(c) ~~The Elections Board shall, by published regulations of general applicability~~ The Campaign Finance Board shall, by regulation, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. The regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in the regulations shall not be considered until actual payment is made.

(d) Any legal defense committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year shall so notify the Director.

(e) All actions of the ~~Elections Board~~ Campaign Finance Board or of the United States Attorney for the District of Columbia to enforce the provisions of this part must be initiated within 5 years of the discovery of the alleged violation of this part.

D.C. Code § 1-1163.32a. Establishment of the Fair Elections Program.

There is established within the ~~Office of~~ Campaign Finance Board a Fair Elections Program to provide for publicly funded political campaigns.

D.C. Code § 1-1163.32c. Certification as a participating candidate.

(a) To be certified by the Director of Campaign Finance as a participating candidate for a seat for a covered office in an election cycle, a candidate shall, during the qualifying period:

(1) Obtain the following:

(A) For a candidate for Mayor, qualified small-dollar contributions from at least 1,000 small-dollar contributors, which, in the aggregate, total $40,000 or more;

(B) For a candidate for Attorney General, qualified small-dollar qualified small-dollar contributions from at least 500 small-dollar contributors, which, in the aggregate, total $20,000 or more;

(C) For a candidate for Chairman of the Council, qualified small-dollar qualified small-dollar contributions from at least 300 small-dollar contributors, which, in the aggregate, total $15,000 or more;

(D) For a candidate for member of the Council elected at-large, qualified small-dollar contributions from at least 250 small-dollar contributors, which, in the aggregate, total $12,000 or more;

(E) For a candidate for member of the Council elected from a ward or member of the State Board of Education elected at-large, qualified small-dollar contributions from at least 150 small-dollar contributors, which, in the aggregate, total $5,000 or more; or

(F) For a candidate for member of the State Board of Education elected from a ward, qualified small-dollar contributions from at least 50 small-dollar contributors, which, in the aggregate, total $1,000 or more; and

(2) File, with the Director of Campaign Finance, an affidavit signed by the candidate and the treasurer of the candidate's principal campaign committee declaring that the candidate:

(A) Has complied with and, if certified, will continue to comply with the Fair Elections Program's requirements;

(B) If certified, will only run in that election cycle as a participating candidate;

(C) If certified, will only run during that election cycle for the seat for the covered office for which the candidate is seeking certification, including in both the primary and general elections, as applicable;

(D) Has otherwise qualified, or will take steps to qualify, for ballot access in accordance with the procedures required by the ~~Elections~~ Campaign Finance Board pursuant to section 8 of the Election Code, such as by filing a declaration of candidacy under 3 DCMR § 601 and a nominating petition containing the required number of valid signatures under 3 DCMR § 1605;

(E) Is current with respect to any fines or penalties owed for a violation of this act; and

(F) Has responded and will respond to all inquiries of the ~~Elections~~ Campaign Finance Board and the Director of Campaign Finance in a timely manner.

(b) No later than 5 days after a candidate complies with subsection (a) of this section, the Director of Campaign Finance shall determine whether the candidate meets the requirements for certification described in subsection (a) of this section as a participating candidate, and:

(1) If the requirements are met, certify the candidate as a participating candidate; or

(2) If the requirements are not met, provide an opportunity to:

(A) Cure any deficiencies in the filing; and

(B) Appeal the determination within 5 business days.

(c) The Director of Campaign Finance shall revoke a certification made under subsection (b) of this section if a participating candidate:

(1) Fails to qualify for ballot access pursuant to section 8 of the Election Code;

(2) Does not continue to run as a participating candidate in that election cycle;

(3) Does not run for the seat for the covered office for which the candidate was certified during that election cycle, including in both the primary and general elections, as applicable;

(4) Terminates his or her candidacy; or

(5) Fails to comply with the Fair Elections Program's requirements.

(d) If a certification is revoked under subsection (c) of this section, the Director of Campaign Finance shall provide the candidate with the opportunity to appeal the revocation within 5 business days.

(e) If a certification is revoked under subsection (c) of this section, the participating candidate whose certification has been revoked shall remit to the Fair Elections Fund the remaining funds in the participating candidate's campaign accounts pursuant to section 332h.

D.C. Code § 1-1163.32f. Limitations on contributions and expenditures.

[...]

(d) A participating candidate shall not make expenditures for the following:

(1) Legal expenses not directly related to acts taken under this act or the Elections Code;

(2) Payment of any penalty or fine imposed pursuant to federal or District law;

(3) Compensation to the participating candidate or a member of the participating candidate's immediate family, except for reimbursement of out-of-pocket expenses incurred for campaign purposes;

(4) Clothing and other items or services related to the participating candidate's personal appearance;

(5) Contributions, loans, or transfers to another candidate's political committee or a political action committee;

(6) Gifts, which, for the purposes of this paragraph, shall not include printed campaign materials such as signs, brochures, buttons, or clothing; and

(7) Any other purpose that the ~~Elections~~ Campaign Finance Board establishes through rules issued pursuant to section 332k.

D.C. Code § 1-1163.32h. Remitting funds and turning over equipment to the Office of Campaign Finance.

(a)(1) No later than 60 days after a primary election in an election cycle for which a losing participating candidate was on the ballot, the losing participating candidate shall remit to the Director of Campaign Finance, for deposit in the Fair Elections Fund, the remaining funds in the participating candidate's campaign accounts. The losing participating candidate shall also turn over any equipment purchased by the campaign to the ~~Office of~~ Campaign Finance Board.

(2) No later than 60 days after a special or general election in an election cycle for which a participating candidate was on the ballot, the participating candidate shall remit to the Director of Campaign Finance, for deposit in the Fair Elections Fund, the remaining funds in the participating candidate's campaign accounts. The losing participating candidate shall also turn over any equipment purchased by the campaign to the ~~Office of~~ Campaign Finance Board.

(b)(1) No later than 60 days after a participating candidate's certification is revoked pursuant to section 332c(c), the participating candidate shall remit to the Director of Campaign Finance, for deposit in the Fair Elections Fund, the remaining funds in the participating candidate's campaign accounts. The participating candidate whose certification has been revoked pursuant to section 332c(c) shall also turn over any equipment purchased by the campaign to the ~~Office of~~ Campaign Finance Board.

(2) If a participating candidate's certification is revoked pursuant to section 332c(c)(2), (3), or, due to fraudulent activities, (5), the participating candidate shall be personally liable for any expended base amount or matching payments.

(c) Notwithstanding subsections (a) and (b) of this section, a participating candidate may withhold funds from the amount required to be remitted for an additional 180 days after the 60-day periods in subsections (a) and (b) of this section if the participating candidate submits documentation of the funds to the Director of Campaign Finance no later than the last day of the 60-day period. The withheld funds shall only be used for the following purposes:

(1) To repay any authorized expenditures or retire the proper debts that were incurred in connection with the participating candidate's campaign; and

(2) To repay personal funds of the participating candidate or the participating candidate's immediate family contributed under section 332f(a)(6).

(d) The ~~Office of~~ Campaign Finance Board shall accept any equipment given to it by participating candidates.

(e) For the purposes of this section, the term "equipment" means any furniture or electronic or battery-powered equipment purchased by a participating candidate's campaign that costs at least $50.

D.C. Code § 1-1163.32j. Reporting by the Director of Campaign Finance.

The Director of Campaign Finance shall publish on the ~~Office of Campaign Finance's~~ Campaign Finance Board's website and submit a report to the Mayor and the Council no later than 9 months after the end of each election cycle. The report shall include, at a minimum, the following:

[...]

D.C. Code § 1-1163.32l. Rules.

(a) The ~~Elections~~ Campaign Finance Board, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of the Fair Elections Amendment Act of 2018, passed on 2nd reading on February 6, 2018 (Enrolled version of Bill 22-192), including:

(1) Procedures for verifying and auditing qualified small-dollar contributions; and

(2) Rules relating to:

(A) The storage, use, or disposition of equipment returned to the ~~Office of~~ Campaign Finance Board under section 332h, which may permit disposition of equipment directly to one or more unaffiliated nonprofit organizations or public schools operating in the District;

(B) The removal or deletion of data in equipment returned to the ~~Office of~~ Campaign Finance Board; and

(C) The discarding of unusable equipment returned to the ~~Office of~~ Campaign Finance Board.

(b) For the purposes of this section, the term "equipment" shall have the same meaning as provided in section 332h(e).

D.C. Code § 1-1163.33. Contribution limitations.

(a) No person, including a business contributor, may make any contribution, and no person may receive any contribution from any contributor, that when aggregated with all other contributions received from that contributor relating to a campaign for nomination as a candidate

or election to public office, including both the primary and general election or special elections, exceeds:

(1) In the case of a contribution in support of a candidate for Mayor or for the recall of the Mayor, $2,000;

(2) In the case of a contribution in support of a candidate for Attorney General or for the recall of the Attorney General, $1,500;

(3) In the case of a contribution in support of a candidate for Chairman of the Council or for the recall of the Chairman of the Council, $1,500;

(4) In the case of a contribution in support of a candidate for member of the Council elected at-large or for the recall of a member of the Council elected at-large, $1,000;

(5) In the case of a contribution in support of a candidate for member of the State Board of Education elected at-large or for member of the Council elected from a ward or for the recall of a member of the State Board of Education elected at-large or for the recall of a member of the Council elected from a ward, $500;

(6) In the case of a contribution in support of a candidate for member of the State Board of Education elected from an election ward or for the recall of a member of the State Board of Education elected from an election ward or for an official of a political party, $200; and

(7) In the case of a contribution in support of a candidate for a member of an Advisory Neighborhood Commission, $25.

(b) A business contributor shall certify for each contribution that it makes that no affiliated entities have contributed an amount that when aggregated with the business contributor's contribution would exceed the limits imposed by this chapter.

(c)~~(1) No person, including a business contributor, may make any contribution in any one election for Mayor, Attorney General, Chairman of the Council, each member of the Council, and each member of the State Board of Education (including primary and general elections, but excluding special elections), that when combined with all other contributions made by that contributor in that election to candidates and political committees exceeds $8,500.~~

~~(2)~~ All contributions to a candidate's principal political committee shall be treated as contributions to the candidate and shall be subject to the contribution limitations contained in this section.

(d) Any entity, whether or not considered distinct under Title 29 of the District of Columbia Official Code, may be an affiliated entity for purposes of this chapter.

(e)(1) No political committee or political action committee may receive in any one election, including primary and general elections, any contribution in the form of cash or money order from any one person that in the aggregate exceeds $100.

(2) No person may make any contribution in the form of cash or money order which in the aggregate exceeds $100 in any one election to any one political committee or political action committee, including primary and general elections.

(f)(1) No person may make contributions to any one political committee or political action committee in any one election~~, including primary and general elections, but excluding special elections,~~ that in the aggregate exceed $5,000.

(2) Contributions to a political action committee that are designated for a non-contribution account shall not be subject to the contribution limitations of this subsection.

(f-1) Limitations on contributions under this section shall apply to political action committees during nonelection years.

(g) No contributor may make a contribution or cause a contribution to be made in the name of another person, and no person may knowingly accept a contribution made by one person in the name of another person.

(h) An independent expenditure is not considered a contribution to or an expenditure by or on behalf of the candidate for the purposes of the limitations specified in this section.

(h-1) The contribution limitations in this section shall not apply to independent expenditure committees.

(i) All contributions made by a person directly or indirectly to or for the benefit of a particular candidate or that candidate's political committee that are in any way earmarked, encumbered, or otherwise directed through an intermediary or conduit to that candidate or political committee shall be treated as contributions from that person to that candidate or political committee and shall be subject to the limitations established by this chapter.

(j)(1) No candidate or member of the immediate family of a candidate may make a loan or advance from his or her personal funds for use in connection with a campaign of that candidate for nomination for election, or for election, to a public office unless a written instrument fully discloses the terms, conditions, and parts to the loan or advance. The amount of any loan or advance shall be included in computing and applying the limitations contained in this section only to the extent of the balance of the loan or advance that is unpaid at the time of determination.

(2) For the purposes of this subsection, the term "immediate family" means the candidate's spouse, domestic partner, parent, brother, sister, or child, and the spouse or domestic partner of a candidate's parent, brother, sister, or child.

(k) No contributions made to support or oppose initiative or referendum measures shall be affected by the provisions of this section.

(l) The provisions of subsections (a), (b), (d), (e)(2), and (j)(2) of this section shall not apply to the Fair Elections Program established by section 332a.

D.C. Code § 1-1163.34a. Covered contractor contributions.

(a) No agency or instrumentality of the District government, including an independent agency, shall enter into or approve a contract with a covered contractor if the covered contractor has contributed to a prohibited recipient during the prohibited period.

(b) No covered contractor shall contribute to a prohibited recipient during the prohibited period.

(c) To facilitate compliance with this section:

(1) Each contracting authority shall:

(A) Maintain a publicly-available list on its website of all covered contractors, including their principals, for the contracts of that contracting authority;

(B) Notify covered contractors, in the solicitation or similar invitation or opportunity to contract, of:

(i) The prohibited recipients or, if the value of the contract is estimated, the likely prohibited recipients for the contract based on its estimated value; and

(ii) Any other relevant provisions of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 et seq.);

(C) With the Director of Campaign Finance, identify, for each covered contractor, whether the covered contractor has contributed to a prohibited recipient during the prohibited period;

(D) Enforce the provisions of subsection (e)(1) of this section against covered contractors who have violated this section, as determined pursuant to subparagraph (C) of this paragraph, and provide their names to the Campaign Finance Board pursuant to subsection (e)(2) of this subsection; and

(E) For contracting authorities other than the Office of Contracting and Procurement, notify the Office of Contracting and Procurement of any enforcement actions taken pursuant to subsection (e)(1) of this section; and

(2) The Director of Campaign Finance shall:

(A) Check the publicly-available lists of covered contractors maintained pursuant to paragraph (1)(A) of this subsection against the reports of receipts and expenditures submitted to the Director of Campaign Finance pursuant to section 309 to identify any unlawful contributions, and then notify the covered contractor, the prohibited recipient who accepted the contribution, and the relevant contracting authority; and

(B) Notify public officials and campaign treasurers of the relevant provisions of the Campaign Finance Reform Amendment Act of 2018, as approved by the Committee on the Judiciary and Public Safety on October 18, 2018 (Committee print of B22-107).

(d) The Director of Campaign Finance shall make available any necessary information to the contracting authorities and the Office of the Chief Financial Officer to facilitate compliance with this section.

(e)(1) A covered contractor that violates section 334a may be considered to have breached the terms of any existing contract with the District. At the discretion of the relevant contracting authority, any existing contract of the covered contractor may be terminated. The covered contractor may also be disqualified from eligibility for future District contracts, including the extension or modification of any existing contract, for a period of 4 calendar years from the date of determination that a violation of section 334a has occurred.

(2) The names of any prohibited recipients or covered contractors found to be in violation of this section shall be prominently displayed on the webpage of the Campaign Finance Board.

D.C. Code § 1-1163.35. Penalties.

(a)(1) Except for violations subject to civil penalties identified under paragraph (2) of this subsection, any person who violates any provision of ~~Parts A through E of this subchapter or of subchapter I of Chapter 10 of this title [§ 1-1001.01 *et seq.*]~~ this title may be assessed a civil penalty for each violation of not more than $2,000, or 3 times the amount of an unlawful contribution, expenditure, gift, honorarium, or receipt of outside income, whichever is greater, by the ~~Elections Board~~ Campaign Finance Board pursuant to paragraph (3) of this subsection. For the purposes of this section, each occurrence of a violation of Parts A through E of this subchapter, and each day of noncompliance with a disclosure requirement of Parts A through E of this subchapter or an order of the ~~Elections Board~~ Campaign Finance Board, shall constitute a separate offense.

(2)(A) A candidate or other person charged with the responsibility under this subchapter for the filing of any reports or other documents required to be filed pursuant to this subchapter who fails, neglects, or omits to file any such report or document at the time and in the

manner prescribed by law, or who omits or incorrectly states any of the information required by law to be included in such report or document, in addition to any other penalty provided by law, may be assessed a civil penalty of not more than $4,000 for the first offense and not more than $10,000 for the second and each subsequent offense.

(B) A political committee, political action committee, or independent expenditure committee that violates Part B of this subchapter shall be subject to a civil penalty not to exceed $4,000 for the first offense, and not more than $10,000 for the second and each subsequent offense.

(C) A person who makes a contribution, gift, or expenditure in violation of Parts A through E of this subchapter may be assessed a civil penalty by the ~~Elections Board~~ Campaign Finance Board not to exceed $4,000, or 3 times the amount of the unlawful contribution, gift, or expenditure, whichever amount is greater.

(D) A person who aids, abets, or participates in the violation of any provision of Parts A through E of ~~this subchapter or of subchapter I of Chapter 10 of this title [§ 1-1001.01 et seq.]~~ this subchapter shall be subject to a civil penalty not to exceed $1,000.

(3) A civil penalty shall be assessed by the ~~Elections Board~~ Campaign Finance Board by order. An order assessing a civil penalty may be issued only after the person charged with a violation has been given an opportunity for a hearing and the ~~Elections Board~~ Campaign Finance Board has determined, by a decision incorporating its findings of facts, that a violation did occur, and the amount of the penalty. Any hearing under this section shall be on the record and shall be held in accordance with the Chapter 5 of Title 2 [§ 2-501 et seq.].

(4) Notwithstanding the provisions of paragraph (3) of this subsection, the ~~Elections Board~~ Campaign Finance Board may issue a schedule of fines that may be imposed administratively by the Director of Campaign Finance for violations of Parts A through E of this subchapter. A civil penalty imposed under the authority of this paragraph may be reviewed by the ~~Elections Board~~ Campaign Finance Board in accordance with the provisions of paragraph (3) of this subsection. The aggregate amount of penalties imposed under the authority of this paragraph may not exceed $4,000.

(5) If a person against whom a civil penalty is assessed fails to pay the penalty, the ~~Elections Board~~ Campaign Finance Board shall file a petition for enforcement of its order assessing the penalty in the Superior Court of the District of Columbia. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall be sent by registered or certified mail to the respondent and the respondent's attorney of record, and if the respondent is a political committee, political action committee, or independent expenditure committee, to the chairperson of the committee, and the ~~Elections Board~~ Campaign Finance Board shall certify and file in court the record upon which the order sought to be enforced was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying and enforcing as so modified, or setting aside, in whole or in part, the order and the decision of the ~~Elections Board~~ Campaign Finance Board or it may remand the proceedings to the ~~Elections Board~~ Campaign Finance Board for further action as it may direct. The court may determine de novo all issues of law, but the Election Board's findings of fact, if supported by substantial evidence, shall be conclusive.

(b) Except as provided in subsection (c) of this section, any person who violates any of the provisions of Parts A through E of this subchapter shall be subject to criminal prosecution and, upon conviction, shall be fined not more than the amount set forth in § 22-3571.01, or imprisoned for not longer than 6 months, but not both.

(c) Any person who knowingly violates any of the provisions of Parts A through E of this subchapter shall be subject to criminal prosecution and, upon conviction, shall be fined not more than the amount set forth in § 22-3571.01, or imprisoned for not longer than 5 years, or both.

(d) Prosecutions pursuant to subsection (b) may be brought by the United States Attorney for the District of Columbia, in the name of the United States, or by the Attorney General for the District of Columbia, in the name of the District of Columbia. If the Attorney General for the District of Columbia initiates an investigation for the purpose of prosecution pursuant to subsection (b) of this section, he or she shall promptly notify the United States Attorney for the District of Columbia. Prosecutions pursuant to subsection (c) of this section shall be brought by the United States Attorney for the District of Columbia in the name of the United States.

(e) All actions of the ~~Elections Board~~ Campaign Finance Board, the United States Attorney for the District of Columbia, or the Attorney General for the District of Columbia to enforce the provisions of Parts A, B, D, and E of this subchapter shall be initiated within 6 years of the actual occurrence of the alleged violation.

D.C. Code § 1-1163.36. Prohibition on the use of District government resources for campaign-related activities.

(a) No resources of the District of Columbia government, including the expenditure of funds, the personal services of employees during their hours of work, and nonpersonal services, including supplies, materials, equipment, office space, facilities, and telephones and other utilities, shall be used to support or oppose any candidate for ~~elected~~ public office, whether partisan or nonpartisan, or to support or oppose any initiative, referendum, or recall measure, including a charter amendment referendum conducted in accordance with § 1-203.03.

(b)(1) This section shall not prohibit the Chairman and members of the Council, the Mayor, the Attorney General, or the President and members of the State Board of Education from expressing their views on a District of Columbia election as part of their official duties.

(2) This subsection shall not be construed to authorize any member of the staff of the Chairman and members of the Council, the Mayor, the Attorney General, or the President and members of the State Board of Education, or any other employee of the executive or legislative branch to engage in any activity to support or oppose any candidate for ~~elected~~ public office, whether partisan or nonpartisan, an initiative, referendum, or recall measure during their hours of work, or the use of any nonpersonal services, including supplies, materials, equipment, office space, facilities, telephones and other utilities, to support or oppose an initiative, referendum, or recall matter.

D.C. Code § 1-1163.37. Document under oath.

(a) Notwithstanding any other provisions of this ~~subchapter~~ title, neither the ~~Elections~~ Campaign Finance Board, ~~or any of its officers or employees, nor~~ the Director of Campaign Finance, or any of ~~his or her~~ the Director's officers or employees, may require that a document be sworn under oath or affirmed unless the ~~Elections~~ Campaign Finance Board and Director of Campaign Finance maintain at the place of receipt of such documents and during regular business days and hours, a notary public to administer such oaths or affirmations.

(b) If no such notary public is available, persons wishing to file documents for which an oath or affirmation is requested may, in lieu thereof, affirm by their signature that their statements are true under penalty of § 1-1163.35.

D.C. Code § 1-1163.38. Constituent services.

(a) The Mayor, the Chairman of the Council, and each member of the Council may establish constituent-service programs within the District. The Mayor, the Chairman of the Council, and each member of the Council may finance the operation of these programs with contributions from persons; provided, that contributions received by the Mayor, the Chairman of the Council, and each member of the Council do not exceed an aggregate amount of $40,000 in any one calendar year. The Mayor, the Chairman of the Council, and each member of the Council may expend a maximum of $60,000 in any one calendar year for constituent service programs. No person shall make any contribution which, and neither the Mayor, the Chairman of the Council, nor any member of the Council shall receive any contribution from any person which, when aggregated with all other contributions received from such person, exceed $500 per calendar year; provided, that such $500 limitation shall not apply to contributions made by the Mayor, the Chairman of the Council, or any member of the Council for the purpose of funding his or her own constituent-service program. The Mayor, the Chairman of the Council, and each member of the Council shall file a quarterly report of all contributions received and monies expended in accordance with this subsection with the Director of Campaign Finance.

(b)(1) Funds raised pursuant to this section shall be expended only for an activity, service, or program which provides emergency, informational, charitable, scientific, educational, medical, or recreational services to the residents of the District of Columbia and which expenditure accrues to the primary benefit of residents of the District of Columbia.

(2) Allowable expenditures include:

(A) Funeral arrangements;

(B) Emergency housing and other necessities of life;

(C) Past due utility payments;

(D) Food and refreshments or an in-kind equivalent on infrequent occasions;

(E) Community events sponsored by the constituent-service program or an entity other than the District government; and

(F) Community-wide events.

(3) Disallowable expenditures include:

(A) Promoting or opposing, as a primary purpose, a political party, committee, candidate, or issue;

(B) Fines and penalties inuring to the District;

(C) Any expenditure of cash;

(E) Sponsorships for political organizations; and

(F) Any mass mailing within the 90-day period immediately preceding a primary, special, or general election by a member of the Council, or the Mayor, who is a candidate for office.

(c) Upon the request of any member of the Council, the Mayor shall provide the member with suitable office space in a publicly owned building for the operation of a constituent-service program office located in the ward represented by the member. Each at-large member of the

Council shall be offered constituent-service office space located in a ward of the member's choice. Members shall be provided with space of approximately equivalent square footage, and in similar proximity to commercial corridors and public transportation, where practicable. The space provided shall also be easily accessible by persons with disabilities or persons who are elderly. Any space provided shall not be counted as an in-kind contribution. Furnishings, equipment, telephone service, and supplies to this office space shall be provided from funds other than appropriated funds of the District government.

(d) Every constituent-service program shall have a ~~chairman~~ chairperson and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a constituent-service program at a time when there is a vacancy in the office of its treasurer and no other person has been designated and has agreed to perform the functions of treasurer. No expenditure shall be made for or on behalf of a constituent-service program without the authorization of its ~~chairman~~ chairperson or treasurer or their designated agents.

(e) Contributions of personal property from persons to the Mayor or to any members of the Council or contributions of the use of personal property shall be valued, for purposes of this section, at the fair market value of the property, not to exceed $1,000 per calendar year at the time of the contribution. Contributions made or received pursuant to this section shall not be applied against the limitation on political contributions established by § 1-1163.33.

(f) All contributions and expenditures made by persons to the Mayor, Chairman of the Council, and each member of the Council as provided by subsection (a) of this section, and all expenditures made by the Mayor, Chairman of the Council, and each member of the Council as provided by subsection (a) of this section, shall be reported to the Director of Campaign Finance quarterly on forms that the Director of Campaign Finance shall prescribe. The forms must prescribe itemized reporting of expenditures. All of the record-keeping requirements of this subchapter shall apply to contributions and expenditures made under this section. At the time of termination, any excess funds shall either be used to retire the debts of the program or donated to an nonprofit organization, within the meaning of the Internal Revenue Code, and operating in good standing in the District of Columbia for a minimum of one calendar year prior to the date of donation.

(g) Activities authorized by this section may be carried on at any location in the District; provided, that employees do not engage in constituent-service fundraising activities while on duty.

(h) Violations of this part shall be subject to the penalties set forth in ~~§ 1-1162.21~~ § 1-1163.35.

Section 7

D.C. Code § 1-1171.02. Political activity authorized; prohibitions.

(a) An employee may take an active part in political management or in political campaigns; provided, that an employee shall not:

(1) Use his or her official authority or influence for the purpose of interfering with or affecting the result of an election;

(2) Knowingly solicit, accept, or receive a political contribution from any person, except if the employee has filed as a candidate for political office;

(3) File as a candidate for election to a partisan political office; or

(4) Knowingly direct, or authorize anyone else to direct, that any subordinate employee participate in an election campaign or request a subordinate to make a political contribution.

(b) The Mayor, the Attorney General, and each member of the Council may designate one employee ~~while on~~ annual or unpaid ~~leave~~ to perform any of the functions described in subsection (a)(2) of this section; provided, that:

(1) The employee shall not perform the ~~activities~~ functions while the employee is on duty or in any room or building occupied in the discharge of official duties in the District government, including any agency or instrumentality thereof;

(1A) The employee may only perform these functions for a principal campaign committee, exploratory committee, or transition committee;

(2) Any designation pursuant to this subsection shall be made in writing by the Mayor and the Attorney General to the Secretary of the District of Columbia and by any member of the Council to the Secretary to the Council;

~~(3) Any designated employee shall file a report within 15 days of being designated and as otherwise required pursuant to § 1-1162.24; and~~

(3)(A) Any designated employee shall file a report, in a form as prescribed by the Board, with the Board within 15 days after being designated.

(B) The report shall identify only the employee's name, the name of the person who designated the employee, and the name of the principal campaign committee, exploratory committee, or transition committee for which the employee is designated.

(C) The Board shall, on its website, identify each designated employee, and for each designated employee shall identify the name of the person who designated the employee, as well as the name of the principal campaign committee, exploratory committee, or transition committee for which the employee is designated.

(D) The report required by this paragraph shall be in addition to any disclosure required under section 224 or 225 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code §§ 1-1162.24, 1-1162.25); and

(4) The Mayor, the Attorney General, and the Council shall issue standards of conduct implementing this subsection.

(c) Repealed.

Section 8

D.C. Code § 2-352.02. Criteria for Council review of multiyear contracts and contracts in excess of $1 million.

(a)(1) Pursuant to § 1-204.51, before the award of a multiyear contract or a contract in excess of $1 million during a 12-month period, the Mayor or executive independent agency or instrumentality shall submit the proposed contract to the Council for review and approval in accordance with the criteria established in this section.

(2) For a contract modification to exercise an option period when the exercise of the option period does not result in a material change in the terms of the underlying contract, submission of the modification to exercise the option period shall constitute submission of the contract pursuant to this subsection.

(b)(1) A proposed multiyear contract shall be deemed disapproved by the Council unless, during the 45-calendar-day review period beginning on the 1st day (excluding Saturdays, Sundays, and holidays) following its receipt by the Office of the Secretary to the Council, the Council adopts a resolution to approve the proposed multiyear contract.

(2) A proposed contract in excess of $1 million during a 12-month period shall be deemed approved by the Council if one of the following occurs:

(A) During the 10-day period beginning on the 1st day (excluding Saturdays, Sundays, and holidays) following its receipt by the Office of the Secretary to the Council, no member of the Council introduces a resolution to approve or disapprove the proposed contract; or

(B) If a resolution has been introduced in accordance with subparagraph (A) of this paragraph, and the Council does not disapprove the contract during the 45-day review period beginning on the 1st day (excluding Saturdays, Sundays, and holidays) following its receipt by the Office of the Secretary to the Council.

(3)(A) Council approval of contracts submitted pursuant to paragraph (2) of this subsection shall expire 12 months after the award of the contract.

(B)(i) Council approval of a contract containing a provision that grants to the District the option of continuing or amending the contract beyond the 12-month period of Council approval shall not constitute Council approval of the exercise of the option contract.

(ii) To exercise an option that meets the criteria for Council review pursuant to this section, the Mayor shall submit the option contract to the Council pursuant to this section.

(iii) The exercise of an option that meets the criteria for Council review under this subsection without Council review of the option contract is a violation of this section and § 1-204.51.

(c) Proposed contracts submitted pursuant to this section may be submitted electronically and shall contain a summary, including the following:

(1) The proposed contractor, the names of the contractor's principals, contract amount, unit and method of compensation, contract term, type of contract, and the source selection method;

(1A) For a contract containing option periods, the contract amount for the base period and for each option period and, if the contract amount for one or more of the option periods differs from the contract amount for the base period, an explanation of the reason or reasons for that difference;

(1B) If the contract definitizes a letter contract or replaces a contract awarded through an emergency procurement pursuant to § 2-354.05:

(A) The date, or dates, on which the letter contract or emergency awarded through an emergency procurement was executed;

(B) The number of times the letter contract or contract awarded through an emergency procurement has been extended; and

(C) The value of the goods and services provided to date under the letter contract or contract awarded through an emergency procurement, including under each extension of the letter contract or contract awarded through an emergency procurement.

(2) The goods or services to be provided, the methods of delivering goods or services, and any significant program changes reflected in the proposed contract;

(3)(A) The selection process, including the number of offerors, the evaluation criteria, and the evaluation results, including price, technical or quality, and past-performance components.

(B) If the contract was awarded on a sole-source basis, the date on which a competitive procurement for the goods or services to be provided under the contract was last conducted, the date of the resulting award, and a detailed explanation of why a competitive procurement is not feasible;

(3A) A description of any bid protest related to the award of the contract, including whether the protest was resolved through litigation, withdrawal of the protest by the protestor, or voluntary corrective action by the District. Each such description shall include the identity of the protestor, the grounds alleged in the protest, and any deficiencies identified by the District as a result of the protest;

(3B) A description of any other contracts the proposed contractor is currently seeking or holds with the District;

(4) The background and qualifications of the proposed contractor, including its organization, financial stability, personnel, and performance on past or current government or private-sector contracts with requirements similar to those of the proposed contract;

(4A) A summary of the subcontracting plan required under § 2-218.46, to include a certification by the District that the subcontracting plan meets the minimum requirements of § 2-218.01, and the dollar volume of the portion of the contract to be subcontracted, expressed both in total dollars and as a percentage of the total contract amount;

(5) Performance standards and expected outcomes of the proposed contract;

(5A) The amount and date of any expenditure of funds by the District pursuant to the contract before its submission to the Council for approval;

(6) A certification that the proposed contract is within the appropriated budget authority for the agency for the fiscal year and is consistent with the financial plan and budget adopted in accordance with §§ 47-392.01 and 47-392.02;

(7) A certification that the proposed contract is legally sufficient, including whether the proposed contractor has any currently pending legal claims against the District;

(8)(A) A certification that the Citywide Clean Hands Database indicates that the proposed contractor is current with its District taxes.

(B) If the Citywide Clean Hands Database indicates that the proposed contractor is not current with its District taxes:

(i) A certification that the contractor has worked out and is current with a payment schedule approved by the District; or

(ii) A certification that the contractor will be current with its District taxes after the District recovers any outstanding debt as provided under § 2-353.01(a)(9);

(8A) A certification from the proposed contractor that it is current with its federal taxes, or has worked out and is current with a payment schedule approved by the federal government.

(8B)(A) A certification that the proposed contractor has been determined not to be in violation of section 334a of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.34a); and

(B) A certification from the proposed contractor that it currently is and will not be in violation of section 334a of the Board of Ethics and Government Accountability

Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.34a);

(9) The status of the proposed contractor as a certified local, small, or disadvantaged business enterprise, as defined in subchapter IX-A of Chapter 2 of this title [§ 2-218.01 et seq.];

(10) Other aspects of the proposed contract that the CPO considers significant;

(11) A statement indicating whether the proposed contractor is currently debarred from providing services or goods to the District or federal government, the dates of the debarment, and the reasons for debarment;

(11A) Any determination and findings issued in relation to the contract's formation, including any determination and findings made under § 2-352.05;

(12) Where the contract, and any amendments or modifications, if executed, will be made available online; and

(13) Where the original solicitation, and any amendments or modifications, will be made available online.

(c-1) A proposed change to the scope or amount of a contract, including the exercise of an option period, a modification, a change order, or any similar change that is submitted to the Council pursuant to this section and seeks from the Council retroactive approval of an action or authorization for payment, shall include the summary required under subsection (c) of this section and also shall include:

(1) The period of performance associated with the proposed change, including the date as of which the proposed change is to be made effective;

(2) The value of any work or services performed pursuant to a proposed change for which the Council has not provided approval, disaggregated by each proposed change if more than one proposed change has been aggregated for Council review;

(3) The aggregate dollar value of the proposed change as compared with the amount of the contract as awarded;

(4) The date on which the contracting officer was notified of the proposed change;

(5) The reason why the proposed change was sent to the Council for approval after it is intended to take effect;

(6) The reason for the proposed change; ~~and~~

(7) The legal, regulatory, or contractual authority for the proposed change. ; and

(8)(A) A certification that the proposed contractor has been determined not to be in violation of section 334a of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.34a); and

(B) A certification from the proposed contractor that it currently is and will not be in violation of section 334a of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.34a).

[...]

D.C. Code § 2-361.04. Transparency in contracting.

(a) The CPO shall establish and maintain on the Internet a website containing publicly available information regarding District procurement.

(b) The website established pursuant to subsection (a) of this section shall contain, at a minimum, the following:

(1) Information regarding the statutes and rules that govern procurement for all District agencies, including those exempt from the authority of the CPO.

(2)(A) A webpage with links to each District government website containing active solicitations for goods or services in an amount in excess of $100,000, including websites maintained by District agencies exempt from the authority of the CPO.

(B) Each website linked to by the webpage provided for in subparagraph (A) of this paragraph shall:

(i) ~~p~~Provide clear instructions on how to respond electronically to each solicitation, unless a solicitation cannot be responded to electronically, in which case the website shall provide clear instructions on how to respond to the solicitation through non-electronic means;

(ii) Include information in the solicitation regarding:

(I) The prohibited recipients or, if the value of the contract is estimated, the likely prohibited recipients, as that term is defined in section 101(45D) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(45D)), for the contract based on its estimated value; and

(II) Any other relevant provisions of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*).

(3) A database containing information regarding each contract executed by the District for an amount equal to or greater than $100,000, including each such contract made by a District agency exempt from the authority of the CPO pursuant to § 2-351.05. For each contract contained in the database, the database shall include a unique identifier and, at a minimum, the following:

(A) A copy of the executed contract;

(B) All determinations and findings related to the contract;

(C) All contract modifications, change orders, or amendments associated with the contract;

(D) All solicitation documents for the contract, including all requests for proposals and invitations for bids, and any amendments of such documents; ~~and~~

(E) The contract summary documents for the contract that are submitted to the Council for its review~~.~~ ; and

(F) A notation identifying:

(i) Whether the vendor is a covered contractor, as that term is defined in section 101(10C) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(10C)); and

(ii) To which prohibited recipients, as that term is defined in section 101(45D) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(45D)), the vendor is prohibited from making campaign contributions and during what prohibited period, as that term is defined in section 101(45C) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform

Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(45C)).

(4) Placeholders identifying any portions of the items set forth in paragraph (3) of this subsection withheld as confidential by the CPO pursuant to § 2-354.17.

(5) A list of each contract executed by the District for an amount less than $100,000, which shall include, for each contract, the vendor name, a description of the goods or services purchased, and the dollar amount of the contract.

(6) Repealed.

(c) Agencies not subject to the authority of the CPO shall transmit the information required by this section to the CPO for posting on the Internet.

D.C. Code § 47-4701(b)(1). TAFA requirements.

(a) A bill introduced in the Council that grants an exemption or abatement of a tax imposed by this title or by § 42-1103, unless the exemption or abatement is one of general applicability, shall not receive a Council hearing until a completed tax abatement financial analysis ("TAFA") has been provided to the Council and made available to the public.

(b)(1) The TAFA shall include:

(A) The terms of the exemption or abatement;

(B) The estimated annual value of the exemption or abatement;

(C) The purpose for which the grantee seeks the exemption or abatement;

(C-i) If the estimated aggregate value of the exemption or abatement is $250,000 or more:

(i) A list of the contributions, as that term is defined in section 101(10) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(10)), made, from the date of the bill's introduction to the date that the TAFA is provided to the Council, by the grantee and the principals of the grantee, to the following persons:

(I) The Mayor and any Councilmember;

(II) A candidate for Mayor or Councilmember;

(III) Any political committee, as that term is defined in section 101(44) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(44)), affiliated with an individual listed in sub-sub-subparagraphs (I) or (II) of this sub-subparagraph; and

(IV) Any constituent-service program established pursuant to section 338 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.38), affiliated with an individual listed in sub-sub-subparagraphs (I) or (II) of this sub-subparagraph; and

(ii) A list, provided by the grantee, of any contracts, as that term is defined in section 101(10C)(A)(ii) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(10C)(A)(ii)), that the grantee is seeking or holds with the District government;

(D) A summary of the proposed community benefits to be provided by the grantee of the exemption or abatement, including, if applicable, the number of jobs that may be created, delineated in accordance with paragraph (2)(A)(iv), (v) and (vi) of this subsection;

(E) If, in the opinion of the Chief Financial Officer, it is unlikely that the grantee's stated purpose could be accomplished without the proposed exemption or abatement:

(i) An estimate of the amount of exemption or abatement necessary to accomplish the purpose;

(ii) Efforts by the grantee to obtain alternate financing; and

(iii) Any factors that limit the ability of the grantee to obtain adequate financing; and

(F) A financial analysis prepared by the Office of the Chief Financial Officer, which shall consist of:

(i) For existing buildings, a review and analysis of the financial condition of the recipient of the proposed exemption or abatement and an advisory opinion stating whether or not it is likely that the recipient could be reasonably expected to meet its fiscal needs without the proposed exemption or abatement;

(ii) For new developments, a review and analysis of the financial condition of the recipient of the proposed exemption or abatement and of the financing proposal submitted by the recipient and an advisory opinion stating whether or not it is likely that the project could be financed without the proposed exemption or abatement;

(iii) For exemptions or abatements related to a person or group of persons that can be readily identified, a review and analysis of the financial condition of the recipient of the proposed exemption or abatement and an advisory opinion stating whether or not it is likely that the recipient could be reasonably expected to meet its fiscal needs without the proposed exemption or abatement. If individual financial information is not available, the requirements of this sub-subparagraph may be met through an advisory opinion on whether the proposed exemption or abatement can reasonably be expected to meet the proposed public policy goal[;and]

(iv) For exemptions or abatements related to a category or group of property owners or taxpayers that cannot be readily identified, a review and analysis of the public policy goal intended to be addressed, if applicable, by the exemption or abatement, including whether the exemption or abatement is appropriately targeted and likely to achieve the intended goal.

[...]

ATTACHMENT L

Committee Print
B22-0107
Committee on the Judiciary & Public Safety
October 18, 2018

A BILL

B22-0107

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the District of Columbia Statehood Constitutional Convention Initiative of 1979 to make conforming changes; to amend the Confirmation Act of 1978 to make conforming changes and add the Campaign Finance Board to the list of boards and commissions for which nominations submitted to the Council for approval are deemed disapproved after ninety days; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to add the Campaign Finance Board to the list of independent agencies under the act, provide that the personnel authority for employees of the Campaign Finance Board is the Campaign Finance Board, compensate the Campaign Finance Board members, and require each member of a board or commission appointed by the Mayor to certify that he or she has undergone ethics training within ninety days of the beginning of their service; to amend the District of Columbia Election Code of 1955 to make technical and conforming changes, strike the requirement that Elections Board members have experience in government ethics, provide that each member of the Campaign Finance Board shall receive compensation, separate the Campaign Finance Board from the Elections Board, and allow the Elections Board to provide and publish advisory opinions on its own initiative or upon receiving a request from certain persons; to amend the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 to add and amend definitions, modify the contents of the Director of Government Ethics' quarterly reports to include contributions reported by registrants, prohibit registrants from bundling to certain political committees, establish the Campaign Finance Board and set forth its composition, powers, and duties, provide a procedure for investigating alleged campaign finance violations, require additional information to be submitted by campaign finance filers, require the preservation of paper and electronic copies of reports and statements by the Director of Campaign Finance, expand the training provided to candidates and committees, allow the Campaign Finance Board to provide and publish advisory opinions on its own initiative or upon receiving a request from certain persons, require committees to file additional information in their statements of organization, amend the schedule for filing reports of receipts and expenditures and require additional information to be filed, require political action committees and independent expenditure committees to disclose information about bundled contributions, lower the threshold for reporting by all committees about bundled contributions, require campaign

funds to be used within a certain period to retire the debts of certain types of political committees, limit the amount of personal loans to a campaign that can be repaid, prohibit certain public officials from fundraising to retire their campaign debts within a certain period, establish and regulate non-contribution accounts, require non-coordination certifications, enhance reporting requirements for independent expenditures, expand political advertising disclosures, lower contribution limits for inaugural and legal defense committees, authorize the Attorney General to maintain a transition committee, align the contribution limitation for transition committees for Council Chairman and Attorney General with other limitations, narrow the authorized purposes for legal defense committees and enhance the information such committees report, repeal the aggregate contribution limitations made by a contributor in a single election to candidates and political committees, provide that limitations on contributions apply to political action committees in nonelection years, and restrict the ability of government contractors to contribute to certain public officials during certain periods; to amend the Prohibition on Government Employee Engagement in Political Activity Act of 2010 to clarify that government employees may only use annual or unpaid leave when they are designated by a public official to knowingly solicit, accept, or receive contributions, require that employees only perform these functions for certain types of committees, and expand the information reported and published about designations; to amend the Procurement Practices Reform Act of 2010 to require summaries of proposed contracts that come before the Council for approval to contain additional information, and require websites established by the Chief Procurement Officer to include certain government contracting and campaign finance information; and to amend section 47-4701 of the District of Columbia Official Code to require a tax abatement financial analysis to include certain government contracting and campaign finance information.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Campaign Finance Reform Amendment Act of 2018".

Sec. 2. Section 11(4) of the District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Official Code § 1-129.21(4)), is amended by striking the phrase "Office of Campaign Finance" and inserting the phrase "Campaign Finance Board" in its place.

Sec. 3. Section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1–523.01(e)), is amended as follows:

(a) Paragraph (7) is amended by striking the phrase "Elections and Ethics" and inserting the word "Elections" in its place.

(b) Paragraph (29) is amended by striking the phrase "Commission established" and inserting the phrase "Commission, established" in its place.

(c) Paragraph (33) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(d) Paragraph (34) is amended by striking the period and inserting the phrase "; and" in its place.

(e) A new paragraph (35) is added to read as follows:

"(35) The Campaign Finance Board, established by section 302 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.02).".

Sec. 4. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-601.01 *et seq.*), is amended as follows:

(a) Section 301 (D.C. Official Code § 1-603.01) is amended as follows:

(1) Paragraph (13) is amended by striking the phrase "Board of Ethics and Government Accountability" and inserting the phrase "the Board of Ethics and Government Accountability, the Campaign Finance Board" in its place.

(2) Paragraph (14A)(A) is amended to read as follows:

"(A) A candidate, as that term is defined in section 101 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01).".

(b) Section 406(b) (D.C. Official Code § 1-604.06(b)) is amended as follows:

(1) Paragraph (4) is amended to read as follows:

"(4) For employees of the Board of Elections, the personnel authority is the Board of Elections;".

(2) Paragraph (4A) is amended by striking the period and inserting the phrase "; and" in its place.

(3) A new paragraph (4B) is added to read as follows:

"(4B) For employees of the Campaign Finance Board, the personnel authority is the Campaign Finance Board;".

(c) Section 908(3) (D.C. Official Code § 1-609.08(3)) is amended by striking the phrase ", District of Columbia Board of Elections and Ethics;" and inserting a semicolon in its place.

(d) Section 1108(c-1) (D.C. Official Code § 1-611.08(c-1)) is amended as follows:

(1) Paragraph (10) is amended by striking the phrase "Chairman per year." and inserting the phrase "Chairperson per year; and" in its place.

(2) A new paragraph (11) is added to read as follows:

"(11) Campaign Finance Board members shall be entitled to compensation at the hourly rate of $40 while actually in the service of the Board, not to exceed $12,500 for each member per year and $26,500 for the Chairperson per year.".

(e) Section 1801(a-2)(2) (D.C. Official Code § 1-618.01(a-2)(2)) is amended by striking the phrase "Filers shall" and inserting the phrase "Filers, and members appointed by the Mayor to a board or commission pursuant to section 2 of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142, D.C. Official Code § 1–523.01), shall" in its place.

Sec. 5. The District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.01 *et seq.*), is amended as follows:

(a) Section 3(d) (D.C. Official Code § 1-1001.03(d)) is amended by striking the phrase "the Chairman" and inserting the phrase "the Chairperson" in its place.

(b) Section 4 (D.C. Official Code § 1-1001.04) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "government ethics or in elections" and inserting the word "elections" in its place.

(2) Subsection (c) is amended to read as follows:

"(c) Each member of the Board, including the Chairperson, shall receive compensation as provided in section 1108(c-1)(10) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-611.08(c-1)(10)).".

(c) Section 5 (D.C. Official Code § 1-1001.05) is amended as follows:

(1) Subsection (a)(14) is amended by striking the phrase "this act, the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, passed on 2nd reading on December 20, 2011 (Enrolled version of Bill 19-511)," and inserting the phrase "this act," in its place.

(2) Subsection (e)(1)(A) is amended by striking the phrase "Board. The Board, at the request of the Director of Campaign Finance, shall provide employees, subject to the compensation provisions of this paragraph, as requested to carry out the powers and duties of the Director. Employees assigned to the Director shall, while so assigned, be under the direction and control of the Director and may not be reassigned without the concurrence of the Director." and inserting the phrase "Board." in its place.

(3) Subsection (g) is amended by striking the phrase "this act or under the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, passed on 2nd reading on December 20, 2011 (Enrolled version of Bill 19-511)," and inserting the phrase "this act" in its place.

(d) A new section 5a is added to read as follows:

"Sec. 5a. Advisory opinions.

"(a)(1) On its own initiative, or upon receiving a request from a person listed below and within a reasonable time after its receipt, the Board shall provide an advisory opinion regarding compliance with this act:

"(A) An elected official or a candidate to be an elected official;

"(B) Any person required to or who reasonably anticipates being required to submit filings to the Board under this act in connection with a pending election or any subsequent election; or

"(C) Any other person under the jurisdiction of the Board.

"(2)(A) The Board shall publish a concise statement of each request for an advisory opinion, without identifying the person seeking the opinion, in the District of Columbia Register within 20 days after its receipt by the Board. Comments upon the requested opinion shall be received by the Board for a period of at least 15 days following publication of the concise statement.

"(B) The Board may waive the requirements of subparagraph (A) of this paragraph, following a finding that the issuance of the advisory opinion constitutes an emergency necessary for the immediate preservation of the public peace, health, safety, welfare, or trust.

"(b) Advisory opinions shall be published in the District of Columbia Register within 30 days after their issuance; provided, that the identity of a person requesting an advisory opinion

shall not be disclosed in the District of Columbia Register without his or her prior consent in writing. When issued according to rules of the Board, an advisory opinion shall be deemed to be an order of the Board.

"(c) There shall be a rebuttable presumption that a transaction or activity undertaken by a person in reliance on an advisory opinion from the Board is lawful if:

"(1) The person requested the advisory opinion;

"(2) The facts on which the opinion is based are full and accurate, to the best knowledge of the person; and

"(3) The person, in good faith, substantially complies with any recommendations in the advisory opinion.".

(e) A new section 18 is added to read as follows:

"Sec. 18. Enforcement of act; penalties.

"(a) Recommendations of criminal or civil, or both, violations of this act shall be presented by the General Counsel to the Board in accordance with the rules and regulations adopted by the Board in accordance with the provisions of Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*).

"(b) Any person who violates any provision of this act may be assessed a civil penalty for each violation of not more than $2,000 by the Board pursuant to subsection (d) of this section. For the purposes of this section, each day of noncompliance with an order of the Board shall constitute a separate offense.

"(c) A person who aids, abets, or participates in the violation of any provision of this act shall be subject to a civil penalty not to exceed $1,000.

"(d)(1) A civil penalty shall be assessed by the Board by order. An order assessing a civil penalty may be issued only after the person charged with a violation has been given an opportunity for a hearing and the Board has determined, by a decision incorporating its findings of facts, that a violation did occur, and the amount of the penalty. Any hearing under this section shall be on the record and shall be held in accordance with Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*).

"(2) If a person against whom a civil penalty is assessed fails to pay the penalty, the Board shall file a petition for enforcement of its order assessing the penalty in the Superior Court of the District of Columbia. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall be sent by registered or certified mail to the respondent and the respondent's attorney of record, and the Board shall certify and file in court the record upon which the order sought to be enforced was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying and enforcing as so modified, or setting aside, in whole or in part, the order and the decision of the Board or it may remand the proceedings to the Board for further action as it may direct. The court may determine de novo all issues of law, but the Board's findings of fact, if supported by substantial evidence, shall be conclusive.

"(e) For the purposes of this act, actions of an agent acting for a candidate shall be imputed to the candidate; provided, that the actions of the agent may not be imputed to the candidate in the presence of a provision of law requiring a willful and knowing violation of this act, unless the agency relationship to engage in the act is shown by clear and convincing evidence.".

Sec. 6. The Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*), is amended as follows:

(a) The table of contents is amended as follows:

(1) Strike the phrase "District of Columbia Board of" and inserting the phrase "Board of" in its place.

(2) Strike the phrase "Office of Campaign Finance" and insert the phrase "Campaign Finance Board" in its place.

(b) Section 101 (D.C. Official Code § 1-1161.01) is amended as follows:

(1) A new paragraph (5A) is added to read as follows:

"(5A) "Campaign Finance Board" means the Campaign Finance Board established by section 302.".

(2) Paragraph (6) is amended as follows:

(A) The lead-in language is amended by striking the phrase ""Candidate" means an individual who seeks nomination for election, or election, to office, whether or not the individual is nominated or elected." and inserting the phrase ""Candidate" means an individual who seeks election to public office, whether or not the individual is nominated or elected." in its place.

(B) Subparagraph (A) is amended by striking the phrase "nomination for election, or election, to office" and inserting the phrase "election to public office" in its place.

(C) Subparagraph (B) is amended by striking the phrase "nomination for election, or election, to office" and inserting the phrase "election to public office" in its place.

(D) Subparagraph (C) is amended to read as follows:

"(C) Knows, or has reason to know, that any other person has received contributions or made expenditures for that purpose, and has not notified that person in writing to cease receiving contributions or making expenditures for that purpose; provided, that an individual

shall not be deemed to be a candidate if the individual notifies each person who has received contributions or made expenditures that the individual is only testing the waters, has not yet made any decision whether to seek election to public office, and is not a candidate.".

(3) Paragraph (9) is amended by striking the phrase ""Compensation" means" and inserting the phrase ""Compensation", for the purposes of Subtitle E of Title II, means" in its place.

(4) A new paragraph (9B) is added to read as follows:

"(9B) "Contracting authority" means:

"(A) The Chief Procurement Officer, as defined in section 104(11) of the PPRA;

"(B) Any agency listed in section 201(b) of the PPRA;

"(C) Any agency listed in section 105(c) of the PPRA that transmits contracts to the Council for approval pursuant to section 202 of the PPRA; and

"(D) The Council of the District of Columbia.".

(5) Paragraph (10) is amended as follows:

(A) Subparagraph (A) is amended as follows:

(i) Sub-subparagraph (i) is amended as follows:

(I) Sub-sub-subparagraph (I) is amended by striking the phrase "The nomination or election" and inserting the phrase "The election" in its place.

(II) Sub-sub-subparagraph (II) is amended by striking the phrase "political committee or political action committee" and inserting the phrase "political committee, political action committee, or independent expenditure committee" in its place.

(ii) Sub-subparagraph (ii)(IV) is amended by striking the period and inserting a semicolon in its place.

(iii) Sub-subparagraph (iii) is amended by striking the period and inserting the phrase "; and" in its place.

(iv) A new sub-subparagraph (iv) is added to read as follows:

"(iv) An expenditure that is coordinated with a public official, a political committee affiliated with a public official, or an agent of any person described in this sub-subparagraph.".

(B) Subparagraph (B)(iii) is amended by striking the phrase "endorse nor oppose" and inserting the phrase "support nor oppose" in its place.

(6) Paragraph (10B) is amended to read as follows:

"(10B)(A) "Coordinate" or "coordination" means to take an action, including making a contribution or an expenditure:

"(i) At the explicit or implicit direction, request, or suggestion of a public official, a political committee affiliated with a public official, or an agent of a public official or a political committee affiliated with a public official; or

"(ii) In cooperation, consultation, or concert with, or with other material involvement of a public official, a political committee affiliated with a public official, or an agent of a public official or a political committee affiliated with a public official.

"(B) There shall be a rebuttable presumption that a contribution or an expenditure is coordinated with a public official, a political committee affiliated with a public official, or an agent of a public official or a political committee affiliated with a public official, if:

"(i) The contribution or expenditure is made based on information that the public official, political committee affiliated with the public official, or an agent of a public official or a political committee affiliated with a public official, provided to the particular person

making the contribution or expenditure about its needs or plans, including information about campaign messaging or planned expenditures;

"(ii) The person making the contribution or expenditure retains the professional services of a person who also provides the public official, political committee affiliated with the public official, or an agent of a public official or a political committee affiliated with a public official, with professional services related to campaign or fundraising strategy;

"(iii) The person making the contribution or expenditure is a political committee, political action committee, or independent expenditure committee that was established or is or was staffed in a leadership role by an individual who:

"(I) Works or previously worked in a senior position or in an advisory capacity on the public official's staff or on the public official's principal campaign committee; or

"(II) Who is a member of the public official's immediate family; or

"(iv) The contribution or expenditure is made for the purpose of financing, directly or indirectly, the election of a candidate or a political committee affiliated with that candidate, and that candidate has fundraised for the person making the expenditure.".

(7) Paragraphs (10C) and (10D) are redesignated as paragraphs (10D) and (10E).

(8) A new paragraph (10C) is added to read as follows:

"(10C)(A)(i) "Covered contractor" means any business entity, or a principal of a business entity, seeking or holding a contract or multiple contracts with the District government, but shall not include a labor organization.

"(ii) For the purposes of this paragraph, "contract" means

agreements with an aggregate value of $250,000 or more, including the value of any option period or similar contract extension or modification, for:

"(I) The rendition of services;

"(II) The furnishing of any goods, materials, supplies, or equipment;

"(III) The construction, alteration or repair of any District government-owned or District government-leased property;

"(IV) The acquisition, sale, lease, surplus, or disposition of any land or building;

"(V) A licensing arrangement;

"(VI) A tax exemption or abatement; or

"(VII) A loan or loan guarantee, not including loans made for non-commercial purposes, such as educational loans or residential mortgage loans.

"(B) Only contracts sought or held with overlapping contract periods shall be aggregated for the purposes of determining the aggregate value of multiple contracts under this paragraph.

"(C) The term "seeking", for the purposes of a tax exemption or abatement, means that legislation authorizing that tax abatement or exemption is pending before the Council.".

(9) Paragraph (12) is amended by striking the phrase "Elections Board" and inserting the phrase "Campaign Finance Board" in its place.

(10) Paragraph (15) is amended by striking the phrase "to office" both times it appears and inserting the phrase "to public office" in its place.

(11) Paragraph (20) is amended as follows:

(A) Subparagraph (D) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(B) Subparagraph (E) is amended by striking the period and inserting the phrase "; and" in its place.

(C) A new subparagraph (F) is added to read as follows:

"(F) The Campaign Finance Board.".

(12) Paragraph (21) is amended as follows:

(A) Subparagraph (A)(i)(I) is amended by striking the phrase "nomination or election" and inserting the word "election" in its place.

(B) Subparagraph (B) is amended by striking the phrase "Elections Board" and inserting the phrase "Campaign Finance Board" in its place.

(13) Paragraph (22) is amended to read as follows:

"(22) "Exploratory committee" means any person, or group of persons, organized for the purpose of exploring the feasibility of an individual becoming a candidate for public office in the District.".

(14) Paragraph (27) is amended by striking the phrase "accepting, and spending" and inserting the phrase "accepting, and expending" in its place.

(15) Paragraph (28A) is amended as follows:

(A) Subparagraph (A) is amended as follows:

(i) The lead-in language is amended by striking the phrase "principal purpose" and inserting the word "purpose" in its place.

(ii) Sub-subparagraph (iii) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(B) Subparagraph (B) is amended as follows:

(i) Sub-subparagraph (i) is amended by striking the phrase "or candidate; or" and inserting a semicolon in its place.

(ii) Sub-subparagraph (ii) is amended to read as follows:

"(ii) Any agent of a public official, including a political committee; and".

(C) A new subparagraph (C) is added to read as follows:

"(C) Not a contribution to a political committee, political action committee, or candidate.".

(16) Paragraph (28B) is amended as follows:

(A) Subparagraph (A) is amended by striking the phrase "principal purpose" and inserting the word "purpose" in its place.

(B) Subparagraph (B) is amended as follows:

(i) Sub-subparagraph (i) is amended by striking the phrase "or candidate; or" and inserting the phrase "; or" in its place.

(ii) Sub-subparagraph (ii) is amended to read as follows:

"(ii) An agent of a public official, including a political committee; and".

(C) The lead-in language of subparagraph (C) is amended to read as follows:

"(C) Does not transfer or contribute to:".

(17) Paragraph (30) is amended by striking the phrase "spending funds to defray the professional fees and costs for a public official's legal defense to one or more civil, criminal, or administrative proceedings" and inserting the phrase "expending funds to defray the professional fees and costs for a public official's legal defense to one or more civil, criminal, or

administrative proceedings arising directly out of the conduct of a campaign, the election process, or the performance of the public official's governmental activities and duties" in its place.

(18) Paragraph (33B) is amended to read as follows:

"(33B) "Material involvement" means, with respect to a contribution or expenditure, any communication to or from a public official, political committee affiliated with public official, or any agent of a public official or political committee affiliated with a public official, related to the contribution or expenditure. Material involvement includes devising or helping to devise the strategy, content, means of dissemination, or timing of the contribution or expenditure, or making any express or implied solicitation of the contribution or expenditure.".

(19) A new paragraph (34A) is added to read as follows:

"(34A) "Non-contribution account" means a financial account of a political action committee that is segregated from other accounts of the political action committee and is used for the sole purpose of making independent expenditures.".

(20) Paragraph (43A) is amended as follows:

(A) Subparagraph (A) is amended as follows:

(i) The lead-in language is amended by striking the phrase "principal purpose" and inserting the word "purpose" in its place.

(ii) Sub-subparagraph (i) is amended by striking the phrase "The nomination or election" and inserting the phrase "The election" in its place.

(B) Subparagraph (B) is amended as follows:

(i) Sub-subparagraph (i) is amended by striking the phrase "or candidate; or" and inserting the phrase "; or" in its place.

(ii) Sub-subparagraph (ii) is amended to read as follows:

"(ii) Any agent of a public official, including a political committee.".

(21) Paragraph (44) is amended as follows:

(A) The lead-in language is amended by striking the phrase "any committee (including any principal campaign, inaugural, exploratory, transition, or legal defense committee)" and inserting the phrase "any committee" in its place.

(B) Subparagraph (A) is amended as follows:

(i) The lead-in language is amended by striking the phrase "principal purpose" and inserting the word "purpose" in its place.

(ii) Sub-subparagraph (i) is amended by striking the phrase "The nomination or election" and inserting the phrase "The election" in its place.

(iii) Sub-subparagraph (ii) is amended by striking the phrase "party;" and inserting the phrase "party; or" in its place.

(C) Subparagraph (C) is amended to read as follows:

"(C) Controlled by or coordinated with any public official or agent of a public official.".

(22) New paragraphs (45A), (45B), (45C), and (45D) are added to read as follows:

"(45A) "PPRA" means the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 *et seq.*).

"(45B) "Principal" of a business entity, for purposes of paragraph (10C) of this section, means senior officers of that business entity, such as president, executive director, chief executive officer, chief operating officer, or chief financial officer. If a business entity is an educational institution, "principal" shall not include deans of that business entity.

"(45C) "Prohibited period" means:

"(A) For the types of contracts described in paragraph (10C)(A)(ii)(I), (I), (III), and (IV) (but not leases, surpluses, or dispositions) of this section, from the date of the solicitation or similar invitation or opportunity to contract to:

"(i) If the covered contractor's response to the solicitation is unsuccessful, the termination of negotiations or notification by the District that the covered contractor's response was unsuccessful;

"(ii) If the covered contractor's response to the solicitation is successful, one year after the termination of the contract;

"(B) For the types of contracts described in paragraphs (10C)(A)(ii)(IV) (only leases), (V), and (VII) of this section, from the date of the solicitation or similar invitation or opportunity to contract to:

"(i) If the covered contractor's response to the solicitation is unsuccessful, the termination of negotiations or notification by the District that the covered contractor's response was unsuccessful;

"(ii) If the covered contractor's response to the solicitation is successful, one year after the entrance into the contract;

"(C) For the types of contracts described in paragraph (10C)(A)(ii)(IV) (only surpluses and dispositions) of this section, from the date of the solicitation or similar invitation or opportunity to contract to:

"(i) If the covered contractor's response to the solicitation is unsuccessful before the introduction of legislation before the Council, the termination of negotiations or notification by the District that the covered contractor's response was unsuccessful;

"(ii) If the covered contractor's response to the solicitation is successful and legislation is introduced before the Council:

"(I) If the legislation is not passed before the end of that Council Period or is disapproved, the end of that Council period; or

"(II) If the legislation passes, one year after the effective date of the legislation; and

"(D) For the types of contracts described in paragraph (10C)(A)(ii)(VI) of this section, from the introduction of legislation, or the inclusion of such a contract in pending legislation, before the Council to:

"(i) If the legislation is not passed before the end of that Council Period or is disapproved, the end of that Council Period; or

"(ii) If the legislation passes, one year after the effective date of the legislation.

"(45D) "Prohibited recipient" means:

"(A) If the covered contractor is seeking or holding a contract, as defined in paragraph (10C)(A)(ii) of this section, with, or for which the procurement process would be overseen by, a District agency subordinate to the Mayor:

"(i) The Mayor;

"(ii) Any candidate for Mayor;

"(iii) Any political committee affiliated with the Mayor or a candidate for Mayor; and

"(iv) Any constituent-service program affiliated with the Mayor;

"(B) If the covered contractor is seeking or holding a contract, as defined in paragraph (10C)(A)(ii) of this section, with the Office of the Attorney General:

"(i) The Attorney General;

"(ii) Any candidate for Attorney General; and

"(iii) Any political committee affiliated with the Attorney General or a candidate for Attorney General; and

"(C) If the covered contractor is seeking or holding a contract, as defined in paragraph (10C)(A)(ii) of this section, with the Council, that must come before the Council for its approval pursuant to section 451 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code § 1-204.51), or which must otherwise be approved by the Council legislatively to take effect (such as tax abatements or exemptions, or surpluses and dispositions of District property):

"(i) Any Councilmember;

"(ii) Any candidate for Councilmember;

"(iii) Any political committee affiliated with a Councilmember or a candidate for Councilmember; and

"(iv) Any constituent-service program affiliated with a Councilmember.".

(23) Paragraph (47)(A) is amended to read as follows:

"(A) A candidate;".

(24) Paragraph (52) is amended by striking the phrase "Chairman of the Council or the Mayor" and inserting the phrase "Mayor, Attorney General, or Chairman of the Council" in its place.

(c) Section 220(a) (D.C. Official Code § 1-1162.20(a)) is amended as follows:

(1) Paragraph (4) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(2) Paragraph (5) is amended by striking the period and inserting the phrase "; and" in its place.

(3) A new paragraph (6) is added to read as follows:

"(6) All political contributions, including bundled contributions, reported as required in section 230.".

(d) Section 224(a) (D.C. Official Code § 1-1162.24(a)) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase "nomination for election, or election, to" and inserting the phrase "election to" in its place.

(2) Paragraph (3) is amended by striking the phrase "nomination for election, or election, to" both times it appears and inserting the phrase "election to" in its place.

(e) Section 231 (D.C. Official Code § 1-1162.31) is amended by adding a new subsection (h) to read as follows:

"(h) Registrants shall not bundle contributions to principal campaign committees, exploratory committees, inaugural committees, transition committees, or legal defense committees.".

(f) Section 302 (D.C. Official Code § 1-1163.02) is amended to read as follows:

"Sec. 302. Campaign Finance Board established; duties; enforcement of title.

"(a) There is established the Campaign Finance Board, whose purpose shall be to:

"(1) Appoint a Director of Campaign Finance, who shall:

"(A) Serve at the pleasure of the Campaign Finance Board; and

"(B) Be compensated at the maximum rate for Grade 16 of the District Schedule, pursuant to Title XI of chapter 6 of the Merit Personnel Act;

"(2) Annually review the performance of the Director of Campaign Finance;

"(3) Administer and enforce the District's campaign finance laws;

"(4) Refer alleged violations for prosecution as provided in this title; and

"(5) Issue rules related to the District's campaign finance laws.

"(b)(1) Where the Campaign Finance Board, following the presentation by the Director of Campaign Finance of evidence constituting an apparent violation of this title, makes a finding of an apparent violation of this title, it shall refer the case for prosecution as provided for in section 335, and shall make public the fact of such referral and the basis for the finding.

"(2) The Campaign Finance Board, through its General Counsel:

"(A) Shall initiate, maintain, defend, or appeal any civil action (in the name of the Campaign Finance Board) relating to the enforcement of the provisions of this title; and

"(B) May petition the courts of the District of Columbia for declaratory or injunctive relief concerning any action covered by the provisions of this title.".

(g) New sections 302a and 302b are added to read as follows:

"Sec. 302a. Composition; term; qualifications; removal.

"(a)(1) The Campaign Finance Board shall consist of 5 members, no more than 3 of whom shall be of the same political party, appointed by the Mayor with the advice and consent of the Council.

"(2) Members shall be appointed to serve for terms of 6 years, except the members first appointed. Of the members first appointed, one member shall be appointed to serve for a 2-year term, 2 members shall be appointed to serve a 4-year term, and 2 members shall be appointed

to serve a 6-year term, as designated by the Mayor. The terms of the 5 initial members shall begin on October 1, 2019.

"(b) The Mayor shall designate the Chairperson of the Campaign Finance Board.

"(c) Unless the unexpired term is less than 6 months, any person appointed to fill a vacancy on the Campaign Finance Board shall be appointed only for the unexpired term of the member whose vacancy he or she is filling.

"(d) A member may be reappointed, and, if not reappointed, notwithstanding section 2(c) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(c)), the member may serve until the member's successor has been appointed and approved.

"(e) When appointing a member of the Campaign Finance Board, the Mayor and Council shall consider whether the individual possesses particular knowledge, training, or experience in campaign finance law or administration.

"(f) A person shall not be a member of the Campaign Finance Board unless the person:

"(1) Is a duly-registered District voter;

"(2) Has resided in the District continuously for the 3-year period preceding the day the person is appointed; and

"(3) Holds no other office or employment in the District government.

"(g) No person, while a member of the Campaign Finance Board, shall:

"(1) Campaign for any public office;

"(2) Serve in a leadership capacity or hold any office in a political party or political committee, political action committee, or independent expenditure committee;

"(3) Participate in any political campaign in any District election, including by:

"(A) Making speeches for or publicly supporting or opposing a District candidate, political party, political committee, political action committee, independent expenditure committee, recall, initiative, or referendum;

"(B) Fundraising for or contributing to a District candidate, political party, political committee, political action committee, independent expenditure committee, recall, initiative, or referendum; or

"(C) Attending or purchasing a ticket for a dinner or other event sponsored by or supporting or opposing a District candidate, political party, political committee, political action committee, independent expenditure committee, recall, initiative, or referendum;

"(4) Be a lobbyist;

"(5) Be an officer, director, or employee of an organization receiving District funds who has managerial or discretionary responsibilities with respect to those funds;

"(6) Use their status as a member to directly or indirectly attempt to influence any decision of the District government relating to any action that is not within the Board's purview; or

"(7) Be convicted of having committed an election- or campaign finance-related felony in the District of Columbia; or if the crime is committed elsewhere, conviction of such offense as would be an election- or campaign finance-related felony in the District of Columbia.

"(h) Each member of the Campaign Finance Board, including the Chairperson, shall receive compensation as provided in section 1108(c-1)(11) of the Merit Personnel Act.

"(i) A member may be removed for good cause, including engaging in any activity prohibited by subsection (f) or (g) of this section.

"(j)(1) The Campaign Finance Board shall hold regular monthly meetings in accordance with a schedule to be established by the Campaign Finance Board. Additional meetings may be called as needed.

"(2) The Campaign Finance Board shall provide notice of meetings and shall conduct its meetings in compliance with the Open Meetings Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-571 *et seq.*).

"Section 302b. Board independent agency; facilities; seal.

"(a) In the performance of its duties, or in matters of procurement, the Campaign Finance Board shall not be subject to the direction of any nonjudicial officer of the District, except as provided in the Merit Personnel Act.

"(b) The District government shall furnish to the Campaign Finance Board such records, information, services, personnel, offices, equipment, and such other assistance and facilities as may be necessary to enable the Campaign Finance Board to properly to perform its functions.

"(c) Subject to the approval of the Mayor, the Campaign Finance Board is authorized to adopt and use a seal.".

(h) Section 303 (D.C. Official Code § 1-1163.03) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (1) is amended as follows:

(i) The lead-in language is amended by striking the phrase "of general applicability approved by the Elections Board" and inserting the phrase "approved by the Campaign Finance Board" in its place.

(ii) Subparagraph (A) is amended by striking the phrase "under oath" and inserting the phrase "under oath, affirmation," in its place.

(iii) Subparagraph (C) is amended by striking the phrase "administer oaths" and inserting the phrase "administer oaths and affirmations" in its place.

(iv) Subparagraph (D) is amended by striking the phrase "of its duties" and inserting the phrase "of the Campaign Finance Board's duties" in its place.

(v) Subparagraph (E) is amended by striking the phrase "to administer oaths" and inserting the phrase "to administer oaths and affirmations" in its place.

(vi) Subparagraph (F) is amended by striking the semicolon and inserting the phrase "; and" in its place.

(vii) Subparagraph (G) is repealed.

(viii) Subparagraph (H) is amended as follows:

(I) Strike the phrase "Elections Board" wherever it appears and inserting the phrase "Campaign Finance Board" in its place.

(II) Strike the phrase "in section 302(c)" and insert the phrase "in section 302(b)" in its place.

(B) Paragraph (2) is amended by striking the phrase "Elections Board" and inserting the phrase "Campaign Finance Board" in its place.

(2) Subsection (b) is amended by striking the phrase "Elections Board" both times it appears and inserting the phrase "Campaign Finance Board" in its place.

(3) Subsection (c) is amended to read as follows:

"(c)(1) All investigations of alleged violations of this title shall be made by the Director of Campaign Finance in his or her discretion, in accordance with procedures of general applicability issued by the Director of Campaign Finance in accordance with the Administrative Procedure Act.

"(2) All allegations of violations of this title, which shall be presented to the Campaign Finance Board in writing, shall be transmitted to the Director of Campaign Finance without action by the Campaign Finance Board.

"(3) The Director of Campaign Finance shall present evidence concerning the alleged violation to the Campaign Finance Board within a reasonable time, if he or she believes that sufficient evidence exists constituting an apparent violation.

"(4) Following the presentation of evidence to the Campaign Finance Board, in an adversary proceeding and an open hearing, the Campaign Finance Board may refer the matter for prosecution in accordance with the provisions of section 302(b) or may dismiss the action. In no case may the Campaign Finance Board refer information concerning an alleged violation of this title for prosecution without the presentation of evidence by the Director of Campaign Finance.

"(5) Should the Director of Campaign Finance fail to present a matter or advise the Campaign Finance Board that insufficient evidence exists to present a matter or that an additional period of time is needed to investigate the matter further, the Campaign Finance Board may order the Director of Campaign Finance to present the matter within 90 days after its receipt.".

(i) Section 304 (D.C. Official Code § 1-1163.04) is amended as follows:

(1) The section heading is amended by striking the phrase "of Director" and inserting the phrase "of the Director" in its place.

(2) Paragraph (1) is amended by striking the phrase "for the making of the reports and statements required to be filed with him or her" and inserting the phrase "for persons to make the reports and statements required to be filed with the Director of Campaign Finance" in its place.

(3) Paragraph (1A) is amended to read as follows:

"(1A) Require that all reports filed with the Director of Campaign Finance pursuant to this title be submitted electronically, provided that reasonable accommodations shall be made where an actual hardship in complying with this paragraph is demonstrated to the Director of Campaign Finance;".

(4) Paragraph (1B) is amended as follows:

(A) Designate the existing text as subparagraph (A).

(B) The newly designated subparagraph (A) is amended by striking the phrase "recipients and agencies pursuant to sections of this title" and inserting the phrase "filers pursuant to this title" in its place.

(C) Add a new subparagraph (B) to read as follows:

"(B) For the purposes of searching receipts of contributions and expenditures, "sortable" means able to be downloaded and filtered by street address, city, state, or zip code of the contributor or payee;".

(5) Paragraph (2) is amended by striking the phrase "consonant with" and inserting the phrase "consistent with" in its place.

(6) Paragraph (3) is amended by striking the phrase "statement by hand and by duplicating machine" and inserting the word "statement" in its place.

(7) Paragraph (4) is amended to read as follows:

"(4) Preserve paper and electronic copies of reports and statements for a period of at least 10 years from date of receipt;".

(8) Paragraph (5) is amended by striking the phrase "current list of all statements or parts of statements" and inserting the phrase "current list of all reports and statements" in its place.

(9) Paragraph (6) is repealed.

(10) Paragraph (7) is amended to read as follows:

"(7)(A) Make any reports prepared under this title available online, including a biennial report summarizing the receipts and expenditures of candidates, political committees, political action committees, and independent expenditure committees, during the prior 2-year period.

"(B) The Director of Campaign Finance shall publish the biennial report required in subparagraph (A) of this paragraph by December 31 of each odd-numbered year. The report shall describe the receipts and expenditures of candidates for Mayor, Attorney General, Chairman and members of the Council, members of the State Board of Education, shadow Senator, and shadow Representative, but shall exclude candidates for Advisory Neighborhood Commissioner. The report shall provide, at a minimum, the following information:

"(i) A summary of each candidate's receipts, in dollar amount and percentage terms, by categories of contributors that the Director of Campaign Finance considers appropriate, such as the candidate himself or herself, individuals, political committees, corporations, partnerships, and labor organizations;

"(ii) A summary of each candidate's receipts, in dollar amount and percentage terms, by the size of the contribution, including contributions of $500 or more; contributions of $250 or more but less than $500; contributions of $100 or more but less than $250; and contributions of less than $100;

"(iii) The total amount of a candidate's receipts and expenditures for primary and general elections, respectively, when applicable;

"(iv) A summary of each candidate's expenditures, in dollar amount and percentage terms, by operating expenditures, transfers to other authorized committees, loan repayments, and refunds of contributions; and

"(v) A summary of the receipts and expenditures of political committees, political action committees, and independent expenditure committees using categories considered appropriate by the Director of Campaign Finance;".

(11) Paragraph (7A) is amended as follows:

(A) A new subparagraph (A-i) is added to read as follows:

"(A-i) Include content on the Fair Elections Program and the requirements of this title pertaining to business contributors, their affiliated entities, and covered contractors;".

(B) Subparagraph (C) is amended by striking the phrase "The names of the participants shall be posted on the website of the Office of Campaign Finance" and inserting the phrase "The names of the participants and those participants who have not completed the training shall be prominently displayed on the website of the Campaign Finance Board" in its place.

(12) Paragraph (9) is amended by striking the phrase "Elections Board" and inserting the phrase "Campaign Finance Board" in its place.

(j) Section 306 (D.C. Official Code § 1-1163.06) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a)(1) On its own initiative, or upon receiving a request from a person listed below and within a reasonable time after its receipt, the Campaign Finance Board shall provide an advisory opinion regarding compliance with this act:

"(A) A public official;

"(B) A political committee, political action committee, or independent expenditure committee;

"(C) An official of a political party;

"(D) Any person required to or who reasonably anticipates being required to submit filings to the Campaign Finance Board under this title; or

"(E) Any other person under the jurisdiction of the Campaign Finance Board.

"(2) The Campaign Finance Board shall publish a concise statement of each request for an advisory opinion, without identifying the person seeking the opinion, in the District of Columbia Register within 20 days after its receipt. Comments upon the requested opinion shall be received by the Campaign Finance Board for a period of at least 15 days following publication. The Campaign Finance Board may waive the advance notice and public comment provisions, following a finding that the issuance of the advisory opinion constitutes an emergency necessary for the immediate preservation of the public peace, health, safety, welfare, or trust.".

(2) Subsection (b) is amended by striking the phrase "Elections Board" both times it appears and inserting the phrase "Campaign Finance Board" in its place.

(3) Subsection (c) is amended by striking the phrase "Elections Board" and inserting the phrase "Campaign Finance Board" in its place.

(k) Section 307 (D.C. Official Code § 1-1163.07) is amended as follows:

(1) Paragraph (1)(B) is amended by striking the phrase "and position of the custodian of books and accounts" and inserting the phrase "employer of the treasurer" in its place.

(2) Paragraph (4) is amended by striking the word "chairman" both times it appears and inserting the word "chairperson" in its place.

(3) Paragraph (5) is amended as follows:

(A) Subparagraph (A) is amended as follows:

(i) Strike the phrase "occupation and the principal" and insert the phrase "occupation, employer, and the principal" in its place.

(ii) Strike the phrase "was made" and insert the phrase "was made, if applicable" in its place.

(B) Subparagraph (B) is amended by striking the phrase "Elections Board" and inserting the phrase "Campaign Finance Board" in its place.

(4) Paragraph (6) is amended by striking the phrase "officers, members" and inserting the phrase "officers, directors, members" in its place.

(l) Section 308(b) (D.C. Official Code § 1-1163.08(b)) is amended by striking the phrase "Elections Board" and inserting the phrase "Campaign Finance Board" in its place.

(m) Section 309 (D.C. Official Code § 1-1163.09) is amended as follows:

(1) Subsection (b) is amended to read as follows:

"(b)(1) The reports required by subsection (a) of this section shall be filed according to the following schedule:

"(A) For political committees:

"(i) In an election year for the office sought, by the 10th day of February, April, July, September, and December, and 8 days before the primary, general, or special election, as applicable to the candidate;

"(ii) In a non-election year for the office sought, by the 10th day of February, July, September, and December; and

"(B) For political action committees and independent expenditure committees, by the 10th day of February, April, July, September, and December, and 8 days before a primary, general, or special election.

"(2) The reports shall be complete as of the closing date prescribed by the Director of Campaign Finance, which shall not be more than 10 days before the date of filing, except that any contribution of $200 or more received after the closing date prescribed by the Director of Campaign Finance for the last report required to be filed before the election shall be reported within 24 hours after its receipt.".

(2) Subsection (c) is amended as follows:

(A) Strike the phrase "the occupation" wherever it appears and insert the phrase "the occupation, employer," in its place.

(B) A new paragraph (2B) is added to read as follows:

"(2B) For a report filed by a political action committee that has established a non-contribution account, any receipts that have been allocated to that account;".

(3) Subsection (e)(4) is amended by striking the phrase "The Elections Board" and inserting the phrase "The Campaign Finance Board" in its place.

(4) Subsection (f) is amended as follows:

(A) The lead-in language is amended by striking the phrase "Each political committee (including principal campaign, inaugural, transition, and exploratory committees)" and inserting the phrase "Each political committee, political action committee, and independent expenditure committee" in its place.

(B) Paragraph (1) is amended to read as follows:

"(1) Name, address, employer, and occupation of each person reasonably known by the committee to have bundled in excess of $5,000 during the reporting period; and".

(n) Section 310 (D.C. Official Code § 1-1163.10) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) Each candidate shall designate in writing one political committee as his or her principal campaign committee. The principal campaign committee shall receive all reports made by any other political committee accepting contributions or making expenditures for the purpose of influencing the election of the candidate who designated it as his or her principal campaign committee. The principal campaign committee may require additional reports to be made to it by any political committee and may designate the time and number of all reports. No political committee may be designated as the principal campaign committee of more than one candidate, except a principal campaign committee supporting the election of a candidate as an official of a political party may support the election of more than one candidate but may not support the election of a candidate for any public office.".

(2) Subsection (c) is amended by striking the phrase "Elections Board" and inserting the phrase "Campaign Finance Board" in its place.

(o) Section 310a (D.C. Official Code § 1-1163.10a) is amended to read as follows:

"(a) Except as provided in section 332h, within the limitations specified in this act, any surplus, residual, or unexpended campaign funds received by or on behalf of a candidate shall be:

"(1) Contributed to a political party for political purposes;

"(2) Within 6 months after the election, used to retire the proper debts of his or her political committee that received the funds, after which the candidate shall be personally liable for

any remaining debts; provided, that any loans made by a candidate to support his or her campaign may only be repaid up to the amount of $25,000;

"(3) Transferred to:

"(A) A political committee;

"(B) A nonprofit organization within the meaning of section 501(c) of the Internal Revenue Code, operating in good standing in the District for a minimum of one calendar year before the date of any transfer; or

"(C) In the case of the Mayor or a Councilmember, an established constituent-service program; or

"(4) Returned to the donors as follows:

"(A) In the case of an individual defeated in an election, within 6 months after the election;

"(B) In the case of an individual elected to office, within 6 months after the election; and

"(C) In the case of an individual ceasing to be a candidate, within 6 months thereafter.

"(b) No public official elected to office shall fundraise after 6 months after the election to retire the proper debts of the public official's political committee, for which the public official is now personally liable.".

(p) Section 311 (D.C. Official Code § 1-1163.11) is amended as follows:

(1) The section heading is amended by striking the phrase "organization filed by political committees" and inserting the word "organization" in its place.

(2) Paragraph (1) is amended by striking the phrase "affiliated or connected" and inserting the word "affiliated" in its place.

(3) Paragraph (3) is amended as follows:

(A) Subparagraph (A) is amended by striking the phrase "Each candidate" and inserting the phrase "Any candidate" in its place.

(B) Subparagraph (B) is amended by striking the phrase "nomination for election or election," and inserting the word "election" in its place.

(4) Paragraph (4) is amended by striking the phrase "political committee" and inserting the phrase "political committee, political action committee, or independent expenditure committee" in its place.

(5) Paragraph (5) is amended by striking "The disposition" and inserting "The plan for the disposition" in its place.

(q) Section 312(a) (D.C. Official Code § 1-1163.12(a)) is amended by striking the phrase "within 5 days of becoming a candidate, or within 5 days of the day on which he or she, or any person authorized by him or her to do so, has received a contribution or made an expenditure in connection with his or her campaign or for the purposes of preparing to undertake his or her campaign" and inserting the phrase "within 5 days after becoming a candidate," in its place.

(r) A new section 312a (D.C. Official Code § 1-1163.12a) is added to read as follows:

"Sec. 312a. Non-contribution accounts.

"(a) A political action committee shall not make an independent expenditure unless it establishes a non-contribution account for the purpose of making such independent expenditures.

"(b) A political action committee must notify the Campaign Finance Board within ten days after establishing a non-contribution account.

"(c) A political action committee that establishes a non-contribution account shall ensure that:

"(1) The non-contribution account remains segregated from any accounts of the political action committee that are used to make contributions to candidates, political committees, political action committees, or political parties;

"(2) No contribution to the political action committee is deposited in the non-contribution account unless the contributor has specifically designated the contribution for the purpose of making an independent expenditure;

"(3) Contributions by the political action committee are not made from the non-contribution account;

"(4) The non-contribution account pays a proportional share, as determined by the Director of Campaign Finance, of the political action committee's administrative expenses.

"(d) If a political action committee has established a non-contribution account, it must, in any reports it files pursuant to section 309, identify any receipts that have been allocated to that account.".

(s) Section 313 (D.C. Official Code § 1-1163.13) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a)(1) Every political action committee and independent expenditure committee shall certify, in each report filed with the Director of Campaign Finance, that the contributions it has received and the expenditures it has made have not been controlled by or coordinated with any public official, political committee affiliated with a public official, or an agent of a public official or political committee affiliated with a public official.

"(2) Every independent expenditure committee shall further certify, in each report filed with the Director of Campaign Finance, that it has not made any contributions or transfers of funds to any public official, political committee, or any political action committee.".

(2) Subsection (b) is amended as follows:

(A) Paragraph (2) is amended to read as follows:

"(2) A business contributor shall comply with all requests from the Campaign Finance Board to provide information about its individual owners, the identity of affiliated entities, the individual owners of affiliated entities, the contributions or expenditures made by such entities, and any other information the Director of Campaign Finance deems relevant to enforcing the provisions of this act.".

(B) Paragraph (3) is amended to read as follows:

"(3)(A) Any person other than a political committee, political action committee, or independent expenditure committee that makes one or more independent expenditures in an aggregate amount of $50 or more within a calendar year shall, in a report filed with the Director of Campaign Finance, identify:

"(i) The name and address of the person;

"(ii) The name and address of any of the person's affiliated entities that have also made an independent expenditure;

"(iii) The amount and purpose of the expenditures;

"(iv) The names of any candidates, initiatives, referenda, or recalls in support of or in opposition to which the expenditures are directed; and

"(v) A certification that, to the best of the person's knowledge, the independent expenditures were not controlled by or coordinated with any public official, political

committee affiliated with a public official, or an agent of any person described in this sub-subparagraph.

"(B) If the person under subparagraph (A) of this paragraph is not an individual, any report filed under this paragraph shall also include:

"(i) The person's principal place of business;

"(ii) The name and address of each person whose total contributions to the person reporting during the period covered by the report exceeded $200; and

"(iii) The date and amount of each contribution by each person whose total contributions to the person reporting during the period covered by the report exceeded $200.

"(C) The report shall be filed on the dates which reports by committees are filed, unless the value of the independent expenditure totals $1,000 or more in a 2-week period, in which case the report shall be filed within 14 days after the independent expenditure.".

(t) Section 315 (D.C. Official Code § 1-1163.15) is amended to read as follows:

"Sec. 315. Identification of political advertising.

"(a)(1) A candidate, political committee, or political action committee shall identify its political advertising by the words "paid for by", followed by the name and address of the candidate or committee and the name of the committee's treasurer, as applicable.

"(2) An independent expenditure committee or person making an independent expenditure shall identify its political advertising by the words "paid for by", followed by the name and address of the independent expenditure committee and the name of the committee's treasurer, or the name and address of the person making the independent expenditure. The political advertising shall also include a written or oral statement of the words "Top Five Contributors",

followed by a list of the five largest contributors to the independent expenditure committee or person making the independent expenditure, if applicable, during the 12-month period before the date of the political advertising.

"(b) A political committee, political action committee, independent expenditure committee, or person making an independent expenditure shall include a statement on the face or front page, if printed, or an oral statement, if audiovisual, of all political advertising soliciting contributions the following notice: "A copy of our report is filed with the Director of Campaign Finance of the Campaign Finance Board.

"(c) The identifications required by this section need not be included on items the size of which makes the inclusion of such identifications impractical.

"(d) For the purposes of this section, the term "political advertising" includes newspaper and magazine advertising; posters; circulars and mailers; billboards; handbills; bumper stickers; sample ballots; initiative, referendum, or recall petitions; radio or television advertisements; paid telephone calls and text messaging; digital media advertisements; and other printed and digital materials produced by the persons in this subsection and intended to support or oppose:

"(1) A candidate or group of candidates; or

"(2) Any initiative, referendum, or recall measure.

(u) Section 316 (D.C. Official Code § 1-1163.16) is amended to read as follows:

"Sec. 316. Liability of candidates for financial obligations incurred by committees; imputing actions of agents of candidates.

"(a) Except as provided in sections 310a(2), 324(a), and 327(a)(1), no provision of this part shall be construed as creating liability on the part of any candidate for any financial obligation incurred by a committee.

"(b) For the purposes of this subtitle, actions of an agent of a candidate shall be imputed to the candidate; provided, that the actions of the agent may not be imputed to the candidate in the presence of a provision of law requiring a willful and knowing violation of this part, unless the agency relationship to engage in the act is shown by clear and convincing evidence.".

(v) Section 317(b) (D.C. Official Code § 1-1163.17(b)) is amended to read as follows:

"(b) In the case of reports filed by a political committee or political action committee on behalf of initiative, referendum, or recall measures under this section, as applicable, the reports shall be filed on the dates that the Campaign Finance Board may by rule prescribe.".

(w) Section 318 (D.C. Official Code § 1-1163.18) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) Any balance in the exploratory committee fund shall be transferred only to an established political committee or nonprofit organization, within the meaning of section 501(c) of the Internal Revenue Code, operating in good standing in the District for a minimum of one calendar year before the date of any transfer.".

(2) Subsection (b) is amended by striking the phrase "elective office" and inserting the phrase "public office" in its place.

(x) Section 319 (D.C. Official Code § 1-1163.19) is amended as follows:

(1) Subsection (a) is amended as follows:

(i) Paragraph (4) is amended by striking the phrase "or President" and inserting the phrase "or at-large member" in its place.

(ii) Paragraph (5) is amended by striking the phrase "a member" and inserting the phrase "a ward member" in its place.

(2) Subsection (b) is amended as follows:

(i) Paragraph (4) is amended by striking the phrase "or President" and inserting the phrase "or at-large member" in its place.

(ii) Paragraph (5) is amended by striking the phrase "a member" and inserting the phrase "a ward member" in its place.

(y) Section 321 (D.C. Official Code § 1-1163.21) is amended by striking the phrase "a candidate's" and inserting the phrase "an individual's" in its place.

(z) Section 322 (D.C. Official Code § 1-1163.22) is amended by striking the number "$10,000" both times it appears and inserting the number "$2,000" in its place.

(aa) Section 324 (D.C. Official Code § 1-1163.24) is amended to read as follows:

"Section 324. Duration of an inaugural committee.

"(a)(1) An inaugural committee shall terminate no later than 6 months after the beginning of the term of the new Mayor.

"(2) An inaugural committee may accept contributions necessary to retire the debts of the committee for 6 months after the beginning of the term of the new Mayor, after which the Mayor shall be personally liable for any remaining debts.

"(b) The Mayor shall not fundraise to retire the proper debts of his or her inaugural committee, for which he or she is now personally liable, after 6 months after the beginning of his or her term.".

(bb) Section 326(b) (D.C. Official Code § 1-1163.26(b)) is amended to read as follows:

"(b) No person, including a business contributor, may make any contribution to or for a transition committee, and the Chairman of the Council or Chairman-elect, or Attorney General or Attorney General-elect, may not receive any contribution to or for a transition committee from any person, that when aggregated with all other contributions to the transition committee received from

991 the person, exceed $1,500 in an aggregate amount; provided, that the $1,500 limitation shall not
992 apply to contributions made by the Chairman of the Council or Chairman-elect, or the Attorney
993 General or Attorney General-elect, for the purpose of funding his or her own transition committee
994 within the District.".
995 (cc) Section 327(a) (D.C. Official Code § 1-1163.27(a)) is amended to read as follows:
996 "Sec. 327. Duration of a transition committee; restriction on formation.
997 "(a)(1) A transition committee shall terminate no later than 6 months after the beginning
998 of the term of the new Mayor, Chairman of the Council, or Attorney General.
999 "(2) A transition committee may continue to accept contributions necessary to retire
1000 the debts of the committee for 6 months after the beginning of the new term, after which the Mayor,
1001 Chairman of the Council, or Attorney General shall be personally liable for any remaining debts
1002 of their respective committees.
1003 "(b) The Mayor, Chairman, or Attorney General shall not fundraise to retire the proper
1004 debts of his or her respective transition committees, for which he or she is now personally liable,
1005 after 6 months after the beginning of his or her new term.".
1006 (dd) Section 328 (D.C. Official Code § 1-1163.28) is amended as follows:
1007 (1) Subsection (a)(1) is amended by striking the phrase "administrative
1008 proceedings." and inserting the phrase "administrative proceedings arising directly out of the
1009 conduct of a campaign, the election process, or the performance of the public official's
1010 governmental activities and duties." in its place.
1011 (2) Subsection (b)(3) is amended by striking the phrase "principal officers" and
1012 inserting the word "officers" in its place.
1013 (ee) Section 329 (D.C. Official Code § 1-1163.29) is amended as follows:

(1) Subsection (a) is amended by striking the word "chairman" both times it appears and inserting the word "chairperson" in its place.

(2) Subsection (b) is amended by striking the phrase "the occupation" and inserting the phrase "the occupation, employer," in its place.

(3) Subsection (c) is amended by striking the phrase "the occupation" both times it appears and inserting the phrase "the occupation, employer," in its place.

(4) Subsection (d) is amended by striking the phrase "Elections Board" and inserting the phrase "Campaign Finance Board" in its place.

(5) Subsection (e) is amended as follows:

(1) Paragraph (1) is amended by striking the number "$10,000" both times it appears and inserting the number "$2,000" in its place.

(2) Paragraph (2) is amended by striking the phrase "a person acting on behalf" and inserting the phrase "an agent" in its place.

(3) Paragraph (3) is amended by striking the phrase "a person acting on behalf" and inserting the phrase "an agent" in its place.

(ff) Section 330 (D.C. Official Code § 1-1163.30) is amended by striking the phrase "registration statement" and inserting the phrase "statement of organization" in its place.

(gg) Section 331(b) (D.C. Official Code § 1-1163.31(b)) is amended by striking the phrase "the occupation" wherever it appears and inserting "including the occupation, employer," in its place.

(hh) Section 332 (D.C. Official Code § 1-1163.32) is amended as follows:

(1) Subsection (b) is amended by striking the phrase "Elections Board in a published regulation" and inserting the phrase "Campaign Finance Board by regulation" in its place.

(2) Subsection (c) is amended by striking the phrase "The Elections Board shall, by published regulations of general applicability," and inserting the phrase "The Campaign Finance Board shall, by regulation," in its place.

(3) Subsection (e) is amended by striking the phrase "the Elections Board" and inserting the phrase "the Campaign Finance Board" in its place.

(ii) Section 332a (D.C. Official Code § 1-1163.32a) is amended by striking the phrase "the Office of Campaign Finance" and inserting the phrase "the Campaign Finance Board" in its place.

(jj) Section 332c (D.C. Official Code § 1-1163.32c) is amended by striking the phrase "the Elections Board" both times it appears and inserting the phrase "the Board" in its place.

(kk) Section 332f(d)(7) (D.C. Official Code § 1-1163.32f(d)(7)) is amended by striking the phrase "the Elections Board" and inserting the phrase "the Board" in its place.

(ll) Section 332h (D.C. Official Code § 1-1163.32h) is amended by striking the phrase "the Office of Campaign Finance" wherever it appears and inserting the phrase "the Campaign Finance Board" in its place.

(mm) Section 332j (D.C. Official Code § 1-1163.32j) is amended by striking the phrase "the Office of Campaign Finance's" and inserting the phrase "the Campaign Finance Board's" in its place.

(nn) Section 332l(a) (D.C. Official Code § 1-1163.32l(a)) is amended by striking the phrase "the Elections Board" and inserting the phrase "the Board" in its place.

(oo) Section 333 (D.C. Official Code § 1-1163.33) is amended as follows:

(1) Subsection (c) is amended as follows:

(A) Paragraph (1) is repealed.

(B) Paragraph (2) is designated as the lead-in language.

(2) Subsection (f) is amended as follows:

(A) The existing text is designated as paragraph (1).

(B) The newly designated paragraph (1) is amended by striking the phrase "election, including primary and general elections, but excluding special elections," and inserting the word "election" in its place.

(C) A new paragraph (2) is added to read as follows:

"(2) Contributions to a political action committee that are designated for a non-contribution account shall not be subject to the contribution limitations of this subsection.".

(3) A new subsection (f-1) is added to read as follows:

"(f-1) Limitations on contributions under this section shall apply to political action committees during nonelection years.".

(4) A new subsection (h-1) is added to read as follows:

"(h-1) The contribution limitations in this section shall not apply to independent expenditure committees.".

(pp) A new section 334a (D.C. Official Code § 1-1163.34a) is added to read as follows:

"Section 334a. Covered contractor contributions.

"(a) No agency or instrumentality of the District government, including an independent agency, shall enter into or approve a contract with a covered contractor if the covered contractor has contributed to a prohibited recipient during the prohibited period.

"(b) No covered contractor shall contribute to a prohibited recipient during the prohibited

period.

"(c) To facilitate compliance with this section:

"(1) Each contracting authority shall:

"(A) Require that covered contractors report their principals to the contracting authority;

"(B) Maintain a publicly-available list on its website of all covered contractors, including their principals, for the contracts of that contracting authority;

"(C) Notify covered contractors, in the solicitation or similar invitation or opportunity to contract, of:

"(i) The prohibited recipients or, if the value of the contract is estimated, the likely prohibited recipients for the contract based on its estimated value; and

"(ii) Any other relevant provisions of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*);

"(D) With the Director of Campaign Finance, identify, for each covered contractor, whether the covered contractor has contributed to a prohibited recipient during the prohibited period;

"(E) Enforce the provisions of subsection (e)(1) of this section against covered contractors who have violated this section, as determined pursuant to subparagraph (C) of this paragraph, and provide their names to the Campaign Finance Board pursuant to subsection (e)(2) of this subsection; and

"(F) For contracting authorities other than the Office of Contracting and Procurement, notify the Office of Contracting and Procurement of any enforcement actions taken

pursuant to subsection (e)(1) of this section; and

"(2) The Director of Campaign Finance shall:

"(A) Check the publicly-available lists of covered contractors maintained pursuant to paragraph (1)(A) of this subsection against the reports of receipts and expenditures submitted to the Director of Campaign Finance pursuant to section 309 to identify any unlawful contributions, and then notify the covered contractor, the prohibited recipient who accepted the contribution, and the relevant contracting authority; and

"(B) Notify public officials and campaign treasurers of the relevant provisions of the Campaign Finance Reform Amendment Act of 2018, as approved by the Committee on the Judiciary and Public Safety on October 18, 2018 (Committee print of B22-107).

"(d) The Director of Campaign Finance shall make available any necessary information to the contracting authorities and the Office of the Chief Financial Officer to facilitate compliance with this section.

"(e)(1) A covered contractor that violates section 334a may be considered to have breached the terms of any existing contract with the District. At the discretion of the relevant contracting authority, any existing contract of the covered contractor may be terminated. The covered contractor may also be disqualified from eligibility for future District contracts, including the extension or modification of any existing contract, for a period of 4 calendar years from the date of determination that a violation of section 334a has occurred.

"(2) The names of any prohibited recipients or covered contractors found to be in violation of this section shall be prominently displayed on the webpage of the Campaign Finance Board.".

(qq) Section 335 (D.C. Official Code § 1-1163.35) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (1) is amended as follows:

(i) Strike the phrase "Elections Board" both times it appears and insert the phrase "Campaign Finance Board" in its place.

(ii) Strike the phrase "of this title or of Title I of the Election Code" and insert the phrase "of this title" in its place.

(B) Paragraph (2) is amended as follows:

(i) Subparagraph (C) is amended by striking the phrase "Elections Board" and inserting the phrase "Campaign Finance Board" in its place.

(ii) Subparagraph (D) is amended by striking the phrase "this subchapter or of Title I of the Election Code" and inserting the phrase "this subchapter" in its place.

(C) Paragraph (3) is amended by striking the phrase "the Elections Board" both times it appears and inserting the phrase "the Campaign Finance Board" in its place.

(D) Paragraph (4) is amended by striking the phrase "the Elections Board" both times it appears and inserting the phrase "the Campaign Finance Board" in its place.

(E) Paragraph (5) is amended by striking the phrase "the Elections Board" wherever it appears and inserting the phrase "the Campaign Finance Board" in its place.

(2) Subsection (d) is amended by striking the phrase "he shall" and inserting the phrase "he or she shall" in its place.

(3) Subsection (e) is amended by striking the phrase "the Elections Board" and inserting the phrase "the Campaign Finance Board" in its place.

(rr) Section 336 (D.C. Official Code § 1-1163.36) is amended by striking the phrase "elected office" both times it appears and inserting the phrase "public office" in its place.

(ss) Section 337 (D.C. Official Code § 1-1163.37) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) Notwithstanding any other provisions of this title, neither the Campaign Finance Board, the Director of Campaign Finance, or any of the Director's officers or employees, may require that a document be sworn under oath or affirmed unless the Campaign Finance Board and Director of Campaign Finance maintain at the place of receipt of such documents and during regular business days and hours, a notary public to administer such oaths or affirmations.".

(2) Subsection (b) is amended by striking the phrase "an oath" and inserting the phrase "an oath or affirmation" in its place.

(tt) Section 338 (D.C. Official Code § 1-1163.38) is amended as follows:

(1) Subsection (d) is amended by striking the word "chairman" both times it appears and inserting the word "chairperson" in its place.

(3) Subsection (h) is amended by striking the phrase "section 221" and inserting the phrase "section 335" in its place.

Sec. 7. Section 3 of the Prohibition on Government Employee Engagement in Political Activity Act of 2010, effective March 31, 2011 (D.C. Law 18-355; D.C. Official Code § 1-1171.02), is amended as follows:

(a) Subsection (a)(1) is amended by striking the phrase "his official" and inserting the phrase "his or her official" in its place.

(b) Subsection (b) is amended as follows:

(1) The lead-in language is amended by striking the phrase "while on leave" and inserting the phrase "while on annual or unpaid leave" in its place.

(2) Paragraph (1) is amended by striking the phrase "the activities" and inserting the phrase "the functions" in its place.

(3) A new paragraph (1A) is added to read as follows:

"(1A) The employee may only perform these functions for a principal campaign committee, exploratory committee, or transition committee;".

(4) Paragraph (3) is amended to read as follows:

"(3)(A) Any designated employee shall file a report, in a form as prescribed by the Board, with the Board within 15 days after being designated.

"(B) The report shall identify only the employee's name, the name of the person who designated the employee, and the name of the principal campaign committee, exploratory committee, or transition committee for which the employee is designated.

"(C) The Board shall, on its website, identify each designated employee, and for each designated employee shall identify the name of the person who designated the employee, as well as the name of the principal campaign committee, exploratory committee, or transition committee for which the employee is designated.

"(D) The report required by this paragraph shall be in addition to any disclosure required under section 224 or 225 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code §§ 1-1162.24, 1-1162.25); and".

Sec. 8. The Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-351.01 *et seq.*), is amended as follows:

(a) Section 202 (D.C. Official Code § 2-352.02) is amended as follows:

(1) Subsection (c) is amended as follows:

(A) Paragraph (1) is amended by striking the phrase "contractor," and inserting the phrase "contractor, the names of the contractor's principals," in its place.

(B) A new paragraph (3B) is added to read as follows:

"(3B) A description of any other contracts the proposed contractor is currently seeking or holds with the District;".

(C) A new paragraph (8B) is added to read as follows:

"(8B)(A) A certification that the proposed contractor has been determined not to be in violation of section 334a of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.34a); and

"(B) A certification from the proposed contractor that it currently is and will not be in violation of section 334a of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.34a);".

(2) Subsection (c-1) is amended as follows:

(A) Paragraph (6) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(B) Paragraph (7) is amended by striking the period and inserting the phrase "; and" in its place.

(C) A new paragraph (8) is added to read as follows:

"(8)(A) A certification that the proposed contractor has been determined not to be in violation of section 334a of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.34a); and

"(B) A certification from the proposed contractor that it currently is and will not be in violation of section 334a of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.34a).".

(b) Section 1104(b) (D.C. Official Code § 2-361.04(b)) is amended as follows:

(1) Paragraph (2)(B) is amended to read as follows:

"(B) Each website linked to by the webpage provided for in subparagraph (A) of this paragraph shall:

"(i) Provide clear instructions on how to respond electronically to each solicitation, unless a solicitation cannot be responded to electronically, in which case the website shall provide clear instructions on how to respond to the solicitation through non-electronic means;

"(ii) Include information in the solicitation regarding:

"(I) The prohibited recipients or, if the value of the contract is estimated, the likely prohibited recipients, as that term is defined in section 101(45D) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(45D)), for the contract based on its estimated value; and

"(II) Any other relevant provisions of the Board of Ethics

and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq.*).".

(1) Paragraph (3) is amended as follows:

(A) Subparagraph (D) is amended by striking the phrase "; and" and inserting a semicolon in its place.

(B) Subparagraph (E) is amended by striking the period and inserting the phrase "; and" in its place.

(C) A new subparagraph (F) is added to read as follows:

"(F) A notation identifying:

"(i) Whether the vendor is a covered contractor, as that term is defined in section 101(10C) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(10C)); and

"(ii) To which prohibited recipients, as that term is defined in section 101(45D) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(45D)), the vendor is prohibited from making campaign contributions and during what prohibited period, as that term is defined in section 101(45C) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(45C)).".

Sec. 9. Section 47-4701(b)(1) of the District of Columbia Official Code is amended by adding a new subparagraph (C-i) to read as follows:

"(C-i) If the estimated aggregate value of the exemption or abatement is $250,000 or more:

"(i) A list of the contributions, as that term is defined in section 101(10) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(10)), made, from the date of the bill's introduction to the date that the TAFA is provided to the Council, by the grantee and the principals of the grantee, to the following persons:

"(I) The Mayor and any Councilmember;

"(II) A candidate for Mayor or Councilmember;

"(III) Any political committee, as that term is defined in section 101(44) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(44)), affiliated with an individual listed in sub-sub-subparagraphs (I) or (II) of this sub-subparagraph; and

"(IV) Any constituent-service program established pursuant to section 338 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1163.38), affiliated with an individual listed in sub-sub-subparagraphs (I) or (II) of this sub-subparagraph; and

"(ii) A list, provided by the grantee, of any contracts, as that term is defined in section 101(10C)(A)(ii) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27,

2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(10C)(A)(ii)), that the grantee is seeking or holds with the District government;".

Sec. 10. Applicability.

(a)(1) Except as provided in subsection (b) of this section, this act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(2) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan and provide notice to the Budget Director of the Council of the certification.

(3)(A) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(B) The date of publication of the notice of the certification shall not affect the applicability of this act.

(b) Sections 6(b)(4), (8), and (22) and (rr), 8, and 9 shall:

(1) Apply as of November 4, 2020; and

(2) Not apply to contracts, as defined in section 101(10C)(A)(ii) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(10C)(A)(ii)), including those contracts' option periods or similar contract extensions or modifications, sought, entered into, or executed before November 4, 2020.

Sec. 11. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 12. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.